

ANTONIN SCALIA

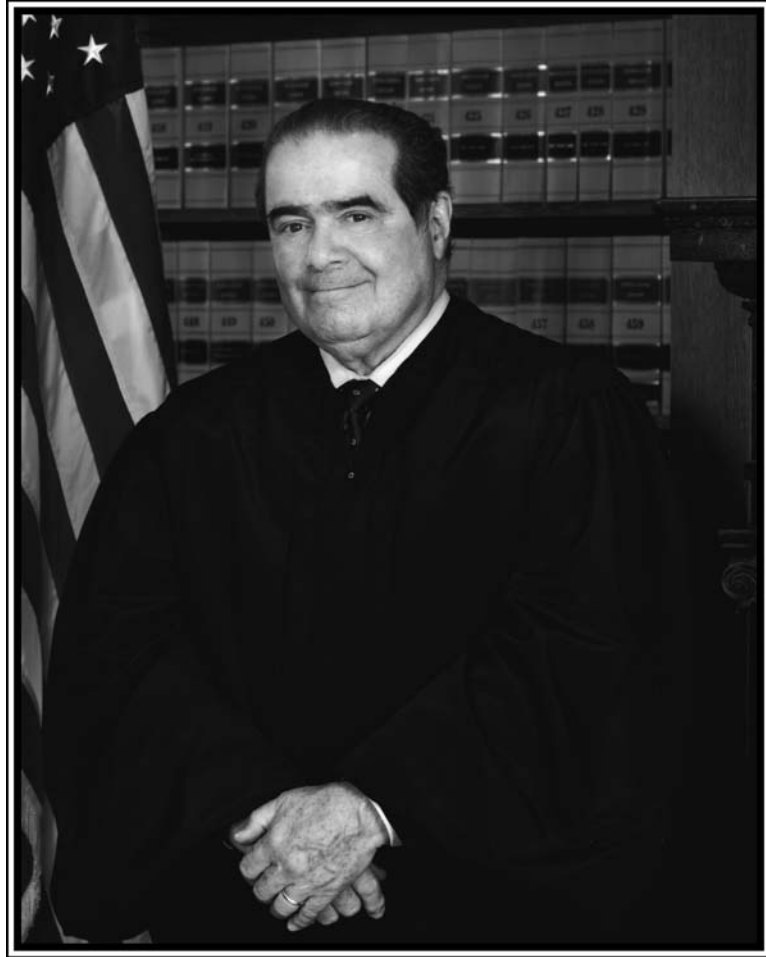
ASSOCIATE JUSTICE OF THE UNITED STATES

MEMORIAL TRIBUTES

IN THE

CONGRESS OF THE UNITED STATES





Antonin Scalia

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*Compiled under the direction
of the
Joint Committee on Printing*

Order for Printing

Mr. McCONNELL. Mr. President, I ask unanimous consent that Senators be permitted to submit tributes to Justice SCALIA for the *Record* until March 10, 2016, and that all tributes be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREWORD

On October 5, 2011, the Senate Judiciary Committee held a hearing for the purpose of “Considering the Role of Judges Under the Constitution of the United States.” Justice ANTONIN SCALIA, who at that point had served on the Court for 25 years, was invited to testify. He began his remarks by telling the committee how he often asks law students what they think makes America a free country. Usually, he indicated, the response will be one of the “marvelous provisions of the Bill of Rights.” He then said this:

But then I tell them, “If you think a bill of rights is what sets us apart, you’re crazy.” Every banana republic in the world has a bill of rights. Every president for life has a bill of rights. The bill of rights of the former evil empire, the Union of Soviet Socialist Republics, was much better than ours. I mean it literally. It was much better. We guarantee freedom of speech and of the press. Big deal. They guaranteed freedom of speech, of the press, of street demonstrations and protests, and anyone who is caught trying to suppress criticism of the government will be called to account. Whoa, that is wonderful stuff!

Of course, just words on paper. What our Framers would have called a “parchment guarantee.” And the reason is that the real constitution of the Soviet Union—you think of the word “constitution”—it doesn’t mean a “bill” it means “structure”: say a person has a sound constitution [you mean] he has a sound structure. The real constitution of the Soviet Union—which our Framers debated [our constitution] that whole summer in Philadelphia in 1787, they didn’t talk about the Bill of Rights, that was an afterthought wasn’t it—that constitution of the Soviet Union did not prevent the centralization of power in one person or in one party. And when that happens, the game is over, the Bill of Rights is just what our Framers would call a “parchment guarantee.”

So, the real key to the distinctiveness of America is the structure of our government.

Justice SCALIA dedicated his life to the defense and preservation of that structure. He understood the role of the judiciary and the role of the elected branches, and the need to respect the differences between and among them. He understood how the division of power among the branches preserved liberty, and how encroachments or usurpations by one branch of another’s prerogatives threatened liberty.

All Americans owe Justice SCALIA a tremendous debt of gratitude for his life of committed public service. Through 30 years of service on the Supreme Court he was always guided

by a belief that Justices should determine what the language of our Constitution and laws require and render a decision based on those requirements, not their own preferences.

Legislators, along with the constituents who elected them, should be particularly grateful for his recognition of, and commitment to, the principle that our system assigns the lawmaking power to the legislature, not the judiciary.

This volume is a collection of tributes Members of Congress gave to Justice SCALIA following his tragic and premature death last year. It is hoped the remarks herein convey our deep sense of gratitude for the life, work, and legacy of Justice SCALIA.

Senator Roy Blunt
Chairman
Committee on Rules and
Administration

Senator Chuck Grassley
Chairman
Committee on the
Judiciary

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BIOGRAPHY

ANTONIN GREGORY SCALIA was born on March 11, 1936, in Trenton, NJ, the only child of Eugene and Catherine Scalia. His father, who had emigrated from Sicily as a young man, was a professor of Romance languages at Brooklyn College. His mother was a schoolteacher and one of seven children of Italian immigrants. When ANTONIN was a child, his family moved to Queens, where he played stickball, rooted for the Yankees, and joined the Boy Scouts. He was valedictorian of the Xavier High class of 1953 and valedictorian of the Georgetown University class of 1957. He attended Harvard Law School, where he earned high honors and was a notes editor for the law review.

The smartest thing ANTONIN SCALIA did at Cambridge was go on a blind date with a Radcliffe undergraduate named Maureen McCarthy, whom he would marry on September 9, 1960. As a Sheldon Fellow of Harvard University from 1960 to 1961, ANTONIN SCALIA studied in Europe with Maureen before settling in Cleveland, where he worked at the law firm of Jones Day from 1961 to 1967. ANTONIN SCALIA left private practice to become a professor of law at the University of Virginia from 1967 to 1971, and then served as General Counsel of the Office of Telecommunications Policy from 1971 to 1972, as Chairman of the Administrative Conference of the United States from 1972 to 1974, and as Assistant Attorney General for the Office of Legal Counsel from 1974 to 1977.

He returned to academic life in 1977 when he joined the faculty at the University of Chicago. He was also visiting professor of law at both Georgetown and Stanford, and was chairman of the American Bar Association's section of administrative law from 1981 to 1982 and its conference of section chairmen from 1982 to 1983.

In 1982 President Reagan chose ANTONIN SCALIA to join the U.S. Court of Appeals for the District of Columbia Circuit, and 4 years later nominated him to the Supreme Court of the United States. ANTONIN SCALIA was confirmed by the Senate, 98 to 0, and took his seat on the bench on September

26, 1986. He served the court for nearly 30 years before his death on February 13, 2016.

ANTONIN SCALIA loved music, hunting, and old movies. He was a devout Catholic, a proud American, a devoted father, and a loving husband. He is survived by Maureen—his wife of 55 years—their 9 children, and their 36 grandchildren.

MEMORIAL TRIBUTES

FOR

ASSOCIATE JUSTICE
ANTONIN SCALIA

Proceedings in the Senate

MONDAY, *February 22, 2016*

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our Father in Heaven, Your counsel stands firm and sure. Fashion the hearts of our lawmakers so that they desire to do Your will. Today, as we remember George Washington's farewell address, may we not forget that our Nation is not strong merely because of military might, but that integrity and righteousness are also critical to national security. Lord, keep our Senators from forgetting Your promise to surround the righteous with the shield of Your Divine favor. Help us all to continue to find hope in Your loving kindness, for we trust in Your Holy Name. May we take refuge in the unfolding of Your loving providence.

And, Lord, thank You for the life and integrity of Justice ANTONIN SCALIA.

We pray in Your sacred Name. Amen.

MOMENT OF SILENCE IN MEMORY OF JUSTICE ANTONIN SCALIA

Mr. McCONNELL. Madam President, I ask unanimous consent that the Senate observe a moment of silence in memory of Justice ANTONIN SCALIA.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Moment of silence.)

Mr. McCONNELL. Madam President, I wish to say a few words about a towering figure of the Supreme Court who will be missed by many. ANTONIN SCALIA was literally one of a kind. In the evenings, he loved nothing more than a night at the opera house. During the day, he often starred in an opus of his own.

For most watchers of the Court, even many of SCALIA's most ardent critics, the work he produced was brilliant, en-

tertaining, and unmissable. Words had meaning to him. He used them to dissect and refute, to amuse and beguile, to challenge and persuade. Even when his arguments didn't carry the day, his dissents often gathered the most attention anyway.

President Obama said that Justice SCALIA will be "remembered as one of the most consequential judges and thinkers to serve on the Supreme Court." I certainly agree. It is amazing that someone who never served as Chief Justice could make such an indelible impact on our country. He is, in my view, in league with Oliver Wendell Holmes, Louis Brandeis, and John Marshall Harlan as perhaps the most significant Associate Justices ever.

I first met him when we both served in the Ford administration's Justice Department. I was fortunate, as a young man, to be invited to staff meetings that featured some of the most influential conservative judicial minds of the time. Robert Bork was there. He was the Solicitor General. Larry Silberman was there. He was the Deputy Attorney General. Everyone in the Department agreed on two things: One, ANTONIN SCALIA was the funniest lawyer on the staff; and, two, he was the brightest.

ANTONIN SCALIA was usually the smartest guy in whatever room he chose to walk into. Of course, he didn't need to tell you he was the smartest. You just knew it.

I came back to Washington a few years later as a Senator on the Judiciary Committee, serving there when ANTONIN SCALIA was nominated to the Supreme Court. His views on the Court were strong, and they were clear. Some tried to caricature his judicial conservatism as something it was not. It was not political conservatism.

Justice SCALIA's aim was to follow the Constitution wherever it took him, even if he disagreed politically with the outcome. We saw that when he voted to uphold the constitutional right of protesters to burn the American flag. He upheld their right to do that. This is what he said: "If it was up to me, I would have thrown this bearded, sandal-wearing flag burner into jail, but it was not up to me."

It was up to the Constitution.

"If you had to pick ... one freedom ... that is the most essential to the functioning of a democracy, it has to be freedom of speech," ANTONIN SCALIA once said. He went on:

Because democracy means persuading one another. And then, ultimately, voting. ... You can't run such a system if there is a muzzling of one point of view. So it's a fundamental freedom in a democracy, much more necessary

in a democracy than in any other system of government. I guess you can run an effective monarchy without freedom of speech. I don't think you can run an effective democracy without it.

Justice SCALIA defended the First Amendment rights of those who would express themselves by burning our flag just as he defended the First Amendment rights of Americans who wished to express themselves by participating in the change-making process of our democracy: the right to speak one's mind, the right to associate freely, the rights of citizens, groups, and candidates to participate in the political process.

Numerous cases involving these kinds of essential First Amendment principles came before the Court during his tenure. I filed nearly a dozen *amicus curiae* briefs in related Supreme Court cases in recent years, and I was the lead plaintiff in a case that challenged the campaign finance laws back in 2002.

These core First Amendment freedoms may not always be popular with some politicians who would rather control the amount, nature, and timing of speech that is critical of them, but Justice SCALIA recognized that protecting the citizenry from efforts by the government to control their speech about issues of public concern was the very purpose of the First Amendment. He knew that such speech—political speech—lay at its very core.

It is a constitutional outlook shared by many, including the members of an organization such as the Federalist Society. You could always count on him attending the Society's annual dinner. One of his five sons, Paul, is a priest, and he always gave an opening prayer. This is what ANTONIN SCALIA said about that.

If in an old-fashioned Catholic family with five sons you don't get one priest out of it, we're in big trouble. The other four were very happy when Paul announced that he was going to take one for the team.

That is the thing about ANTONIN SCALIA. His opinions could bite. His wit could be cutting. But his good humor was always in abundant supply. One study from 2005 concluded decisively—or as decisively as one can—that ANTONIN SCALIA was the funniest Justice on the Court.

He was also careful not to confuse the philosophical with the personal. "I attack ideas. I don't attack people. ... And if you can't separate the two, you gotta get another day job."

These qualities endeared him to many who thought very differently than he did—most famously, his philosophical opposite on the Court, Ruth Bader Ginsburg. Their friendship

began after Ginsburg heard him speak at a law conference. Here is what she said: "I disagreed with most of what he said," she recalled, "but I loved the way he said it."

Justice SCALIA put it this way: "She likes opera, and she's a very nice person. What's not to like?"

"Well," he continued, "except her views on the law."

Ginsburg called him NINO. Justice SCALIA referred to the pair as the "Odd Couple." They actually vacationed together. They rode elephants. They parasailed. Just a few months ago, their relationship was captured in the perfect medium: opera, their shared love.

"SCALIA/Ginsburg: A (Gentle) Parody of Operatic Proportions" premiered last summer. In it, a jurist named SCALIA is imprisoned for "excessive dissenting," and it is none other than Ginsburg, or an actress faintly resembling her, who comes crashing through the ceiling to save him. It is the kind of show that is larger than life, and so was NINO SCALIA.

He leaves behind nine children and a wife who loved him dearly, Maureen. Maureen would sometimes tease her husband that she had her pick of suitors and could just as well have married any of them. But she didn't, he would remind her, because they were wishy-washy, and she would have been bored.

"Whatever my faults are," ANTONIN SCALIA once said, "I am not wishy-washy."

Far from wishy-washy and anything but boring, Justice SCALIA was an articulate champion of the Constitution. He was a personality unto himself, and his passing is a significant loss for the Court and for our country. We remember him today. We express our sympathies to the large and loving family he leaves behind. We know our country will not soon forget him.

Mr. REID. Madam President, we were all shocked by the sudden passing of Supreme Court Justice ANTONIN SCALIA. Justice SCALIA and I had our differences. However, there was no doubting his intelligence or dedication to the country. I offer my condolences to the entire Scalia family, who laid to rest a devoted husband, father, and grandfather this weekend.

I watched the funeral from Nevada, and I was deeply impressed with Justice SCALIA's son, Rev. Paul Scalia, and the moving eulogy he gave his father. It was quite remarkable. ...

Mr. GRASSLEY. Madam President, I rise today to pay tribute to Associate Justice SCALIA of the Supreme Court. His recent death is a tremendous loss to the Court and the Nation.

He was a defender of the Constitution. Since his death, a wide range of commentators—even many who disagreed with him on judicial philosophy—have hailed him as one of the greatest Supreme Court Justices in our history. Justice SCALIA was a tireless defender of constitutional freedom. In so many cases when the Court was divided, he sided with litigants who raised claims under the Bill of Rights. This was a manifestation of his view that the Constitution should be interpreted according to the text and as it was originally understood.

The Framers believed that the Constitution was adopted to protect individual liberty, and, of course, so did Justice SCALIA. He was a strong believer in free speech and freedom of religion. He upheld many claims of constitutional rights by criminal defendants, including search and seizure, jury trials, and the right of the accused to confront the witnesses against them.

Justice SCALIA's memorable opinions also recognize the importance the Framers placed on the Constitution's checks and balances to safeguard individual liberty. Their preferred protection of freedom was not through litigation and the Court's imperfect after-the-fact redress for liberty deprived.

Justice SCALIA zealously protected the prerogatives of each branch of government and the division of powers between Federal and State authorities so that none would be so strong as to pose a danger to freedom.

We are all saddened by the recent death of Supreme Court Justice ANTONIN SCALIA. I extend my sympathies to his family. His death is a great loss to the Nation.

This is true for so many reasons. Justice SCALIA changed legal discourse in this country. He focused legal argument on text and original understanding, rather than a judge's own views of changing times. He was a clear thinker. His judicial opinions and other writings were insightful, witty, and unmistakably his own.

Even those who disagreed with him have acknowledged he was one of the greatest Justices ever to serve on the Supreme Court.

Today I would like to address a common misconception about Justice SCALIA, one that couldn't be further from the truth. Some press stories have made the astounding claim

that Justice SCALIA interpreted individual liberties narrowly. This is absolutely untrue.

It's important to show how many times Justice SCALIA was part of a 5 to 4 majority that upheld or even expanded individual rights.

If someone other than Justice SCALIA had served on the Court, individual liberty would have paid the price.

The first time Justice SCALIA played such a pivotal role for liberty was in a takings clause case under the Fifth Amendment. He ruled that when a State imposes a condition on a land use permit, the government must show a close connection between the impact of the construction and the permit condition.

Even though I disagreed, he ruled that the First Amendment's free speech clause prohibits the States or the Federal Government from criminalizing burning of the flag.

Congress cannot, he concluded, claim power under the commerce clause to criminalize an individual's ownership of a firearm in a gun-free school zone.

Justice SCALIA was part of a five-member majority that held that under the free speech clause, a public university cannot refuse to allocate a share of student activity funds to religious publications when it provides funds to secular publications.

He found the 10th Amendment prohibits Congress from commandeering State and local officials to enforce Federal laws.

The Court, in a 5 to 4 ruling including Justice SCALIA, concluded that it didn't violate the First Amendment's establishment of religion clause for public school teachers to teach secular subjects in parochial schools, as long as there is no excessive entanglement between the State and the religious institution.

Justice SCALIA believed that the Sixth Amendment right to a jury trial requires certain sentencing factors be charged in the indictment and submitted to a jury for it to decide, rather than a judge.

He concluded with four other Justices that the First Amendment's freedom of association allowed the Boy Scouts to exclude from its membership individuals who'd affect the ability of the group to advocate public or private views.

Showing that original intent can't be lampooned for failing to take technological changes into account, Justice SCALIA wrote the Court's majority opinion holding that under the Fourth Amendment, police can't use thermal imaging tech-

nology or other technology not otherwise available to the general public for surveillance of a person's house, even without physical entry, without a warrant.

He decided that notwithstanding the establishment clause, a broad class of low-income parents may receive public school vouchers to defray the costs of their children's attendance at private schools of their choice, including religious schools.

He voted to strike down as a violation of the Sixth Amendment's right to a jury trial Federal and State sentencing guidelines that permit judges rather than juries to determine the facts permitting a sentence to be lengthened beyond what is otherwise permissible.

Justice SCALIA found placing the Ten Commandments on the Texas State House grounds doesn't violate the First Amendment's establishment clause when the monument was considered in context, and conveyed a historical and social message rather than a religious one.

He was part of a 5 to 4 Court that concluded the denial of a criminal defendant's Sixth Amendment right to his counsel of choice, not only denial of counsel generally, automatically requires reversal of his conviction.

He wrote for a 5 to 4 majority that the Second Amendment protects an individual's right to possess a firearm for traditionally lawful purposes, such as self-defense within the home, in Federal enclaves such as Washington, DC. A later 5 to 4 decision applies this individual Second Amendment right against State interference as well.

According to Justice SCALIA and four other Justices, a warrantless search of an automobile of a person who has been put under arrest is permissible under the Fourth Amendment only if there is a continuing threat to officer safety, or there is a need to preserve evidence.

Justice SCALIA also voted that it is a violation of the Sixth Amendment right of the accused to confront the witnesses against him for the prosecution to use a drug test report without the live testimony of the particular person who performed the test.

He was part of a 5 to 4 majority that found that the First Amendment requires that corporations, including nonprofit corporations such as the Sierra Club and the National Rifle Association, are free to make unlimited independent campaign expenditures.

Under the free exercise of religion clause, according to Justice SCALIA and four other Justices, a closely held corpora-

tion is exempt from a law that its owners religiously object to, such as Obamacare's contraception mandate, if there is a less restrictive way to advance the law's interests.

Think about the liberty lost, had Justice SCALIA not served our Nation.

A different Justice might have ruled against individual liberty in each of these cases. It is a frightening prospect. But in each instance, that is what four of Justice SCALIA's colleagues would have done.

Of course, these are only the 5 to 4 opinions. There were many others where Justice SCALIA ruled in favor of constitutional liberty, and more than four other Justices joined him.

Then there were other decisions where Justice SCALIA voted to accept the claim of individual liberty, but a majority of the Court didn't. Some of those cases unquestionably should've come out the other way.

When considering Justice SCALIA's contribution to individual liberty, it's vital to consider his great insight that the Bill of Rights is not the most important part of the Constitution in protecting freedom.

For him, as for the Framers of the Constitution, it is the structural provisions of the Constitution, the checks and balances and the separation of powers that are most protective of liberty.

These were made part of the Constitution not as ends unto themselves, or as the basis to bring lawsuits after rights were threatened, but as ways to prevent government from encroaching on individual freedom in the first place.

For instance, Justice SCALIA protected the vertical separation of powers that is federalism. Federalism keeps decisions closer to the people but also ensures we have a unified nation. It prevents a federal government from overstepping its bounds in ways that threaten freedom.

He also maintained the horizontal separation of powers through strong support of the checks and balances in the Constitution. He defended the power of Congress against Executive encroachment, such as in the recess appointments case.

Justice SCALIA protected the judiciary against legislative infringement of its powers. He defended the Executive against legislative usurpation as well.

The best example, and the one that most directly shows the connection between the separation of powers and individual freedom, was his solo dissent to the Court's upholding of the Independent Counsel Act.

Contrary to the overwhelming views of the public, the media, and politicians at the time, Justice SCALIA correctly viewed that statute not as a wolf in sheep's clothing, but as an actual wolf.

Dismissively rejected in 1988 by nearly all observers, his dissent understood that the creation of a prosecutor for the sole purpose of investigating individuals rather than crimes not only was a threat to the Executive's power to prosecute, but was destined to produce unfair prosecutions.

It's now viewed as one of the most insightful, well-reasoned, farsighted, and greatest dissents in the Court's history. But his powerful and true arguments didn't convince a single colleague to join him.

As important as his 5 to 4 rulings were, in so many ways, the difference between having Justice SCALIA on the Court and not having him there, was what that meant for rigorous analysis of the law.

Justice SCALIA's role as a textualist and an originalist was vital to his voting so frequently in favor of constitutional liberties. He reached conclusions supported by law whether they were popular or not, and often whether he agreed with them or not.

He opposed flag burning. He didn't want to prevent the police from arresting dangerous criminals or make trials even more complicated and cumbersome.

He acted in the highest traditions of the Constitution and our judiciary.

We all owe him a debt of gratitude. We all should give serious thought to the kind of judging that, like his, is necessary to preserve our freedoms and our constitutional order.

Mr. McCONNELL. Mr. President, I recently joined my good friend from Iowa, the chairman of the Judiciary Committee, in writing an opinion piece. We expressed our joint view that the death of Justice SCALIA represented a significant loss for our country . . .

TUESDAY, *February 23, 2016*

Mr. LEAHY. Mr. President, this past weekend the Nation honored Justice ANTONIN SCALIA, who was laid to rest after serving on the Supreme Court for nearly three decades. Marcelle and I were home in Vermont when we learned that Justice SCALIA had passed. Frankly, we were stunned by the

news. I did not often agree with Justice SCALIA, but he was a brilliant jurist with a deep commitment to our country and to the Constitution, and we enjoyed his friendship for decades. He will be remembered as one of the most influential Justices in modern history. . . .

Mr. DURBIN. Mr. President, on February 13 the Nation was shaken by the news that Supreme Court Justice ANTONIN SCALIA had passed away. Justice SCALIA served on the Nation's highest Court for 29 years, and he was a major figure on the American legal landscape. Justice SCALIA was described by Judge Richard Posner of the Seventh Circuit as "the most influential justice of the last quarter century."

Over the years I came to know Justice SCALIA. He was a man of great intellect, good humor, and he was a very social person. We certainly disagreed on many fundamental issues, but even those who disagreed with Justice SCALIA on legal matters still admired him as a person.

Justice Ruth Bader Ginsburg—no ideological ally of Justice SCALIA—wrote after his death, "we were best buddies." She described him as "a jurist of captivating brilliance and wit, with a rare talent to make even the most sober judge laugh." Justice Ginsburg said she and Justice SCALIA were "different in our interpretation of written texts," but they were "one in our reverence for the Constitution and the institution we serve." I have great respect for the decades Justice SCALIA spent in public service. My thoughts and prayers clearly go with his family. . . .

Mr. HATCH. Mr. President, I rise to honor the memory of one of our Nation's greatest champions of limited government under the Constitution, Justice ANTONIN SCALIA. Justice SCALIA set the standard for the kind of judge upon which liberty depends. He was a dear friend, and I will miss him greatly.

The purpose of government, according to the Declaration of Independence and the Constitution, is to secure inalienable rights and the blessings of liberty. Liberty exists by design and, as Andrew Jackson put it, by eternal vigilance. America's Founders were clear that liberty requires separated and limited government powers, including a particular role for unelected judges. Judges who seek to determine what the law is promote liberty; judges who say what they think the law should be undermine it.

Put simply, judges must interpret and apply the law impartially; that is, by setting aside their own opinions, pref-

erences, or prejudices. Interpreting and applying the law impartially particularly leaves the American people and their elected representatives in charge of the law. When they interpret written law impartially, they discern what the original public meaning of the law is. When judges apply the law impartially, they pay no regard to the identity of the parties or the political effects of their decision. Judges can neither make nor change the law they use to decide cases. That is the kind of judge liberty requires. That is the kind of judge ANTONIN SCALIA was.

When President Ronald Reagan first appointed ANTONIN SCALIA to the U.S. Court of Appeals for the DC Circuit in 1982, the future Justice said to those of us on the Judiciary Committee that if confirmed the time for him to opine on the wisdom of laws would be “bygone days.” When he again came before the committee a few years later as a Supreme Court nominee, he repeated that setting aside personal views is “one of the primary qualifications for a judge.” He described a “good judge” as one who starts from the law itself and not “where I would like to come out in [a] particular case.”

Justice SCALIA’s brilliance and wit were certainly impressive, but they were powerfully connected to this deeply considered and deliberately framed judicial philosophy rooted in the principles of the Constitution. He stuck doggedly to this ideal of the good judge whose role in our system of government is limited to properly interpreting the law and impartially applying it to decide cases. His approach requires self-restraint by judges. Judges, he often said, must take the law as they find it and apply it even when they do not like the results. In his own words, “If you’re going to be a good and faithful judge, you have to resign yourself to the fact that you’re not always going to like the conclusions you reach.”

Liberty requires such judicial self-restraint, whether it is en vogue or not. As President Reagan put it when he witnessed the oath of office administered to Justice SCALIA in September 1986, America’s Founders intended that the judiciary be independent and strong but also confined within the boundaries of a written Constitution and laws.

No one believed that principle more deeply and insisted on implementing it more consistently than our Justice SCALIA. His approach to the law was often called textualism or, in the constitutional context, originalism—an approach which is nothing more than determining the original public meaning

of the legal text. It leaves the lawmaking to the lawmakers and the people they represent, rather than to the judge.

The Senate unanimously confirmed Justice SCALIA's nomination on September 17, 1986, the 199th anniversary of the Constitution's ratification. That was very appropriate because his approach gives the Constitution its real due, treating it as more than empty words on a page but as words that already have meaning and substance. Justice SCALIA knew that the Constitution cannot limit government's power if government actors—including judges—define the Constitution.

Justice SCALIA rejected judicial activism—what he called power-judging—that treats the law as shape-shifting. For activists, the laws and the Constitution have no fixed meaning but can rather be contorted and manipulated to fit the judge's own policy preference. Such an approach puts the unelected judge, not the American people in their elected representatives, in the position of supreme lawmaker.

Thomas Jefferson warned that if judges controlled the Constitution's meaning, it would be “a mere thing of wax in the hands of the judiciary, which they may twist and shape into any form they please.” That is exactly what activist judges do, treating the law like clay that they can mold in their own image.

Rather than reinterpreting the law in his own image, the good judge conforms his decisions to the fixed meaning of the law. By insisting that even judges must be the servants rather than the masters of the law, Justice SCALIA was simply following the lead of America's Founders and empowering the American people.

Justice SCALIA's approach to judging not only requires self-restraint by judges, but it also demands rigor and accountability by legislators. The good judge takes seriously the language the legislators enact, so the people can hold accountable the legislators they elect.

The famed Senator and Supreme Court advocate Daniel Webster once said that “there are men in all ages who mean to govern well, but they mean to govern. They promise to be good masters, but they mean to be masters.” Those who object to Justice SCALIA's approach embrace the notion that judges, rather than the people, should be the masters of the law.

Justice SCALIA's impact has been enormous. A liberal legal commentator may have put it best in his review of Justice SCALIA's book, “A Matter of Interpretation,” with these words:

We are all originalists now. That is to say, most judges and legal scholars who want to remain within the boundaries of respectable constitutional discourse agree that the original meaning of the Constitution and its amendment has some degree of pertinence to the question of what the Constitution means today.

Justice SCALIA brought the boundaries of respectable constitutional discourse more in line with the principles of liberty than they had been in a generation. For that, our liberty is more secure, and we should be deeply grateful.

Mr. CORNYN. Mr. President, this past Saturday I was honored to attend the funeral mass for Justice SCALIA. I couldn't help but recall back when President Reagan nominated him for the Supreme Court of the United States. At that time Judge SCALIA said that "[his] only [agenda] was to be a good judge."

Today, 30 years later, it is clear that Justice SCALIA, who until his death served longer than any of the current members of the Supreme Court of the United States, was more than a good judge. In fact, he was a great judge. He was a giant of American jurisprudence.

As I got to know him even better during the course of more recent years, thanks to a mutual acquaintance, I can tell you he was also a good man. My first encounter with Justice SCALIA was back in 1991 when I won an election to be on the Texas Supreme Court and the court invited Justice SCALIA to come to Austin, TX, and administer the oath of office. At that time I already admired his intellect and commitment to the Constitution and the rule of law, and believe me, he was an inspiration to young judges like me who were inspired to do the same. He has been an inspiration to so many judges, lawyers, and law students for decades.

I admired and respected Justice SCALIA. Like many Texans, I was proud of the fact that he also seemed to love Texas, believe it or not, even though he was a Virginian. He remarked once that if he didn't live in Virginia, he would "probably want to be a Texan."

I wish to spend a couple of minutes remembering this great man and the contributions he made to our Nation. Beyond his incredible resume, Justice SCALIA was a devoted husband to Maureen for more than 50 years. He was a dedicated father to 9 children and a grandfather to more than 30 grandchildren. As I said earlier, he was not only a family man, which I am sure he would have considered his most important job, he was a role model for a generation of lawyers, judges, legal scholars, and those who loved the Constitution.

One of the interesting things about Justice SCALIA—and perhaps he could teach all of us a little something these days—was that he was quick to build relationships with people who had different views from his own and fostered an environment of collegiality and friendship on the Court.

As we learned earlier, Justice SCALIA had relationships with people with whom he couldn't have disagreed more on key issues that the Court confronted—people like Justice Ginsburg, for example. We all know he was a gifted writer and possessed an infectious wit, but Justice SCALIA's most important legacy is his life's work and his call for a return to our constitutional first principles.

Justice SCALIA strongly believed that words mattered, and I think that is one of the reasons why he quickly became one of the most memorable writers on the Court and one of the best in the Court's entire history. He believed the words written in the Constitution mattered because that was the only thing the States voted on when they ratified the Constitution. Those were the words with which the American people chose to govern themselves. For decades he tried to give those words force and fought against an attempt to say that we really don't have a written Constitution; we have a living Constitution that should be reinterpreted based on the times when, indeed, the text had not changed one bit.

His originalist interpretation of the Constitution meant that he viewed the Court as a place to vindicate the law and what it meant, not express the preferences of five Justices. Justice SCALIA was one of the most fervent advocates for the rule of law and a written Constitution. On many instances, he made the important point that if the Supreme Court was viewed merely as a group of nine individuals making value judgments on how our country ought to be governed under our Constitution, then the people may well feel that their values were equally as valid as those of the "high nine" on the Potomac given life tenure and a seat on the Supreme Court. It was his strict adherence to the text of the Constitution, and not evolving value judgments over time, that gave protection to our democracy.

Justice SCALIA was strongly committed to the separation of powers. This is so fundamental to the Constitution that, until the first Congress, James Madison didn't even think that we needed a Bill of Rights because he felt that the separation of powers and the division of responsibilities would be protection enough because they viewed the concentration of powers, the opposite of separation of powers, as a threat to

our very liberty. I think he said that the very definition of tyranny was the concentration of powers. So he saw the separation of powers as nothing less than the most important guarantor of our liberty and the most important shield against tyranny.

In one dissent Justice SCALIA wrote “without a secure structure of separated powers, our Bill of Rights would be worthless.” I guess you would have to say he is a Madisonian and not a Federalist by temperament and view. This recognition of the importance of separation of powers could not be any more important at this point in our history because scarcely a month goes by when this administration has chosen to undermine this basic constitutional precept by exerting itself and claiming authorities which the Constitution does not give the President.

Justice SCALIA understood what was at stake. He believed that every blow to the separation of powers would harm our republic and liberty itself.

As Justice SCALIA wrote in a case in which the Court unanimously struck down the President’s violations of the constitutional doctrine of separation of powers, he said: “We should therefore take every opportunity to affirm the primacy of the Constitution’s enduring principles over the politics of the moment.” He continued, warning against “aggrandizing the Presidency beyond its constitutional bounds.” That is what Justice SCALIA did time and again, and that is what he reminded all of us about—the importance of doctrines of separation of powers, adherence to the text of the Constitution, and not making it up as you are going along or expressing value judgments that can’t be related to the actual text and original understanding of the Constitution. . . .

Ms. KLOBUCHAR. . . . I wish to begin by saying that my prayers and thoughts are with the family and friends and Supreme Court colleagues of Justice SCALIA. He was a great scholar who had friends in many places. Just last week I was at the University of Chicago Law School, where I went to law school, and so many people have stories. He used to teach there. He taught there for a long period of time, and they miss him very much. . . .

Mrs. MURRAY. Madam President, I want to take a moment to honor the life and service of Supreme Court Justice ANTONIN SCALIA.

Justice SCALIA was a dedicated public servant who gave so many years to our courts and our country. He and I didn't agree on every issue, but his intellect, passion, and commitment were unquestionable. I know he will be missed, and the thoughts and prayers of Washington State families go out to his family. . . .

Mr. ENZI. Mr. President, I wish to offer a few words remembering Associate Justice ANTONIN SCALIA of the Supreme Court. America has lost a legal giant and tireless defender of the Constitution. Justice SCALIA dedicated his life to his country and the rule of law. His passing is a significant loss for the Court and the United States.

Few Associate Justices of the Supreme Court capture the attention of both lawyers and non-lawyers like Justice SCALIA has throughout his career. ANTONIN SCALIA used wit, humor, and colorful writing to captivate Americans in his judicial opinions and educational talks. Justice SCALIA also felt strongly about protecting the rights of the individual and did so in monumental opinions interpreting the First, Second, Fourth, and Sixth Amendments. In the immediate days following his passing, I received substantial correspondence from Wyoming residents praising his work for upholding the Constitution and defending individual liberties.

A number of my colleagues have already mentioned how Justice SCALIA would always put the Constitution first, even if it conflicted with his personal views. This was the case when Justice SCALIA voted to uphold the right of protesters to burn the American flag—even though he strongly disagreed with flag desecration.

When it comes to privacy, Justice SCALIA established himself as a leading champion of the Fourth Amendment, particularly when it comes to privacy in one's home or car.

Justice SCALIA also authored a landmark majority opinion upholding gun rights under the Second Amendment which reiterated the constitutional right of an individual to keep and bear arms in the District of Columbia, a right which was later incorporated to all States.

Justice SCALIA also fought ardently for religious freedoms under the establishment clause and joined others in upholding freedom of association under the First Amendment.

From his earliest days on the Supreme Court, Justice SCALIA approached the Constitution and statutes passed by Congress as a textualist. He protected the vertical separation of power in our federalist system which keeps decisions clos-

er to the people and fought for the separation of powers among the three branches of Federal Government.

Most recently, Justice SCALIA challenged Executive overreach in the unanimous decision of the Supreme Court invalidating President Obama's unconstitutional recess appointments to the National Labor Relations Board and the Consumer Financial Protection Bureau.

Finally, Justice SCALIA's writings, judicial philosophy, and lectures have influenced future generations of lawyers and jurists. Whether, during oral argument, asking if the government can "make people buy broccoli" or referencing Cole Porter lyrics in opinions, Justice SCALIA used words to rebut, challenge, and persuade.

Justice SCALIA's legacy and legal precedents will stand the test of time, and our Nation owes him a debt of gratitude for his service. My wife Diana and I send our prayers and condolences to the Scalia family.

WEDNESDAY, *February 24, 2016*

Mr. CORNYN. Mr. President, yesterday it was my privilege to say a few words honoring Justice ANTONIN SCALIA, known to his friends as "NINO," a man whose intellect, wit, and dedication to our Constitution have served our country for decades. I am pleased that others have said appropriate words honoring his memory and the many ways he helped strengthen our constitutional self-government and our democracy. . . .

Mr. BLUNT. Mr. President, I wish to talk about Justice SCALIA for a few minutes. . . .

There is no question that the Supreme Court has lost a strong and thoughtful voice. No matter what issues the Justices on the Court might have disagreed with, or even when there was a disagreement on how to interpret the Constitution, there is no question that Judge SCALIA had a unique capacity to get beyond that. He will be missed by the Court for both his intellect and his friendship. He was an Associate Justice on the Court for almost 30 years. He was a true constitutional scholar, both in his work before the Court and on the Court, and he brought a lifetime of understanding of the law to the Court.

He began his legal career in 1961, practicing in private practice. In 1967 he became part of the faculty of the Univer-

sity of Virginia School of Law. In 1972 he joined the Nixon administration as General Counsel for the Office of Telecommunications Policy, and from there he was appointed Assistant Attorney General for the Office of Legal Counsel. He brought a great deal of knowledge to his work and finished the first part of his career as a law professor at the University of Chicago, and that is the point where he became a judge.

In 1982 President Reagan appointed him to the U.S. Court of Appeals for the District of Columbia, a court that gets many of the cases that wind up on the Supreme Court. He was on that court for a little more than 4 years.

In 1986 President Reagan nominated him to serve as an Associate Justice. He was an unwavering defender of the Constitution, and as a member of the Supreme Court, he had the ability to debate as perhaps no one had in a long time—and perhaps no one will for a long time. He had a sense of what the Constitution was all about and a sense of what the Constitution meant, and by that he meant what the Constitution meant to the people who wrote it.

There is a way to change the Constitution. If the country and the Congress think that the Constitution is outmoded in the way that it would have been looked at by the people who wrote it, there is a process to do something about that. That process was immediately used when the Bill of Rights was added to the Constitution and can still be used if people feel the Constitution no longer has the same meaning as what the people who wrote it and voted on it thought it meant. Justice SCALIA had the ability to bring that up in every argument and would sometimes argue against his own personal views. He argued for what the Constitution meant and what it was intended to mean. His opinions were well reasoned, logical, eloquent, and often laced with both humor and maybe a little sarcasm, but they were grounded with the idea that judges should interpret the Constitution the way it was written.

His contributions to the study of law left a profound mark on the legal profession. Lawyers, particularly young lawyers in many cases, talk about the law differently than they did before Justice SCALIA began to argue his view of what the Constitution meant and what the Court meant. He had a great legal mind.

He was fun to be with. I will personally miss the opportunity to talk to him about the books we were reading or books the other one should read or maybe books that the

other one should avoid reading because of the time required to read it. He had a broad sense of wanting to challenge his own views and was able to challenge other people's views not only in a positive way but in a way that he thought advanced the Constitution and what the Constitution meant to the country.

As I stand here today, I am sure many people all over America and the people who the Scalias came into contact with are continuing to remember his family. Our thoughts and prayers are with his wife Maureen, their nine children, and their literally dozens of grandchildren. I am not sure if the number is 36 or 39, but it is an impressive number.

Those who had a chance to see, be there, or read his son's eloquent handling of the funeral service and the eulogy can clearly see the great legacy he and Maureen Scalia left to the country.

I am not a lawyer, which is often the most popular thing I say, so I don't want to pretend to be a lawyer here talking about the law and the Constitution, but you don't really need to be a brilliant lawyer to understand the Constitution or understand what Justice SCALIA was going to be. ...

Justice SCALIA was appointed by Ronald Reagan and served for three decades. He served for a quarter of a century after Ronald Reagan left the White House and for a decade after President Reagan died. ...

Mr. FRANKEN. ... Make no mistake, the passing of Justice ANTONIN SCALIA came as a great shock. Although Justice SCALIA and I did not share a common view of the Constitution or of the country, I recognized that he was a man of great conviction and, it should be said, a man of great humor. My thoughts and prayers are with his family, his friends, his clerks, and his colleagues. ...

Mr. LEE. Mr. President, Supreme Court Justice ANTONIN SCALIA was an extraordinary man whose contributions to this country and the American people, whom he faithfully served from the bench, are so prodigious that it will take generations for us to fully comprehend our debt of great gratitude to him. His untimely, recent death is a tragedy, and his legacy is a blessing to friends of freedom throughout this country and everywhere.

Justice SCALIA was a learned student of history and a man who relished, perhaps more than any other, a spirited, lively debate. ...

Mr. CARDIN. Mr. President, I join the Nation in offering my heartfelt condolences to the family and friends of Justice SCALIA, who was an Associate Justice of the U.S. Supreme Court. For more than three decades, Justice SCALIA devoted himself to the rule of law and public service at the highest levels. Whether you agreed or disagreed with his decisions, there is no debate about Justice SCALIA's profound impact on the Supreme Court. He served his country with great honor. . . .

Mr. BLUMENTHAL. . . . I come here not only as a U.S. Senator but also as a former Federal prosecutor, a U.S. attorney in Connecticut from 1977 to 1981, a former State attorney general for 20 years, and a veteran of four arguments before the U.S. Supreme Court. I am also here as a former law clerk to Justice Harry Blackmun, and I share with the Presiding Officer the experience of having had that supremely important and formative experience, and, of course, it shapes my view as well of the Court.

I have immense respect and awe for the position and power and eminence of the U.S. Supreme Court, its role in our democracy, and its history of scholarship and public service. I have the same admiration for Justice ANTONIN SCALIA, and I take this moment to remember his uniquely American life.

As the son of an immigrant, he was a dedicated public servant, a gifted writer, and a powerful speaker. I heard him speak on a number of occasions and argued before him in the Court in a number of memorable exchanges. His sense of humor and his quickness of wit and insight remain with me now. As all of my colleagues will attest, he dedicated his life to serving the public, which can be demanding and difficult at times, but his life showed, as we know, that the difficulties and the demands are well worth the rewards. My thoughts are with his wife Maureen and his entire family. . . .

SENATE RESOLUTION 374—RELATING TO THE DEATH OF ANTONIN SCALIA, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

Mr. McCONNELL (for himself, Mr. Reid, Mr. Grassley, Mr. Leahy, Mr. Alexander, Ms. Ayotte, Ms. Baldwin, Mr. Barrasso, Mr. Bennet, Mr. Blumenthal, Mr. Blunt, Mr. Booker, Mr. Boozman, Mrs. Boxer, Mr. Brown, Mr. Burr, Ms. Cantwell, Mrs. Capito, Mr. Cardin, Mr. Carper, Mr. Casey, Mr. Cassidy, Mr. Coats, Mr. Cochran, Ms. Collins, Mr. Coons, Mr. Corker, Mr. Cornyn, Mr. Cotton, Mr. Crapo, Mr.

Cruz, Mr. Daines, Mr. Donnelly, Mr. Durbin, Mr. Enzi, Mrs. Ernst, Mrs. Feinstein, Mrs. Fischer, Mr. Flake, Mr. Franken, Mr. Gardner, Mrs. Gillibrand, Mr. Graham, Mr. Hatch, Mr. Heinrich, Ms. Heitkamp, Mr. Heller, Ms. Hirono, Mr. Hoeven, Mr. Inhofe, Mr. Isakson, Mr. Johnson, Mr. Kaine, Mr. King, Mr. Kirk, Ms. Klobuchar, Mr. Lankford, Mr. Lee, Mr. Manchin, Mr. Markey, Mr. McCain, Mrs. McCaskill, Mr. Menendez, Mr. Merkley, Ms. Mikulski, Mr. Moran, Ms. Murkowski, Mr. Murphy, Mrs. Murray, Mr. Nelson, Mr. Paul, Mr. Perdue, Mr. Peters, Mr. Portman, Mr. Reed, Mr. Risch, Mr. Roberts, Mr. Rounds, Mr. Rubio, Mr. Sanders, Mr. Sasse, Mr. Schatz, Mr. Schumer, Mr. Scott, Mr. Sessions, Mrs. Shaheen, Mr. Shelby, Ms. Stabenow, Mr. Sullivan, Mr. Tester, Mr. Thune, Mr. Tillis, Mr. Toomey, Mr. Udall, Mr. Vitter, Mr. Warner, Ms. Warren, Mr. Whitehouse, Mr. Wicker, and Mr. Wyden) submitted the following resolution; which was ordered held at the desk:

S. RES. 374

Whereas ANTONIN SCALIA, the late Associate Justice of the Supreme Court of the United States, was born in Trenton, New Jersey, to Salvatore Eugene Scalia and Catherine Panaro Scalia and raised in Queens, New York;

Whereas ANTONIN SCALIA enrolled in Georgetown University, where he graduated valedictorian and summa cum laude and earned a bachelor's degree in history;

Whereas ANTONIN SCALIA graduated magna cum laude from Harvard Law School, where he was a notes editor for the Harvard Law Review;

Whereas ANTONIN SCALIA married Maureen McCarthy, with whom he raised 9 children, Ann, Eugene, John, Catherine, Mary Claire, Paul, Matthew, Christopher, and Margaret;

Whereas ANTONIN SCALIA was an accomplished attorney in Cleveland, Ohio, and a law professor at the University of Virginia and the University of Chicago;

Whereas President Richard Nixon selected ANTONIN SCALIA to be General Counsel for the Office of Telecommunications Policy;

Whereas ANTONIN SCALIA served as chairman of the Administrative Conference of the United States;

Whereas President Richard Nixon selected ANTONIN SCALIA to be Assistant Attorney General for the Office of Legal Counsel of the Department of Justice, and President Gerald Ford resubmitted the nomination of ANTONIN SCALIA to serve in that position;

Whereas President Ronald Reagan nominated ANTONIN SCALIA to be a judge of the United States Court of Appeals for the District of Columbia Circuit;

Whereas President Ronald Reagan nominated ANTONIN SCALIA to serve as an Associate Justice of the Supreme Court of the United States;

Whereas ANTONIN SCALIA had a profound love for hunting and the arts, in particular opera;

Whereas ANTONIN SCALIA was a man of enormous intellect, incisive analytical skill, and tremendous wit, a combination reflected in the clarity of his judicial opinions;

Whereas the record of ANTONIN SCALIA illustrates a belief in judicial restraint, judicial independence, and the rule of law;

Whereas ANTONIN SCALIA moved public discussion toward a greater appreciation of the text and original meaning of the Constitution as a basis for interpreting the terms of the Constitution;

Whereas ANTONIN SCALIA enforced the separation of powers contained in the Constitution as a bulwark for individual freedom;

Whereas ANTONIN SCALIA raised the level of the quality of oral argument and judicial decisionmaking;

Whereas ANTONIN SCALIA was highly regarded by each of his colleagues, including colleagues with a judicial philosophy that differed from his own;

Whereas ANTONIN SCALIA served with distinction on the Supreme Court for more than 29 years;

Whereas ANTONIN SCALIA was 1 of the most influential and memorable Justices of the Supreme Court of the United States;

Whereas ANTONIN SCALIA was the embodiment of each of the ideal qualities of a judge: fairness, openmindedness, and above all commitment to intellectual rigor in application of the Constitution and the rule of law;

Whereas ANTONIN SCALIA will be remembered as 1 of the great Justices of the Supreme Court of the United States;

Whereas ANTONIN SCALIA passed away on February 13, 2016; and

Whereas the nation is deeply indebted to ANTONIN SCALIA, a truly distinguished individual of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) extends heartfelt sympathy to the family and friends of ANTONIN SCALIA;

(2) acknowledges the lifetime of service of ANTONIN SCALIA to the United States as a talented attorney, a learned law professor, a dedicated public servant, a brilliant jurist, and 1 of the great Justices of the Supreme Court of the United States; and

(3) commends ANTONIN SCALIA for the 29-year tenure on the Supreme Court of the United States.

THURSDAY, *February 25, 2016*

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. DURBIN. ... I sure disagreed with Justice SCALIA on a lot of things, but I do not argue with Judge Posner of the Seventh Circuit in my State when he said that Justice SCALIA was a major force in terms of thinking on the Supreme Court. And what really undergirded the philosophy of Justice SCALIA was what he called originalism. Some people mocked it, and some people just flat out disagreed with it. But he said time and again: Read the Constitution and read the precise wording of the Constitution. I saw different

things in those words than he did, but that was his North Star when it came to Supreme Court decisions. . . .

The PRESIDING OFFICER (Mrs. Fischer). The Senator from Utah.

Mr. HATCH. . . . On Tuesday, I rose to honor the memory of the late Justice ANTONIN SCALIA, whom I knew quite well. With his passing, the Nation lost one of its greatest Supreme Court Justices ever to have served, and I lost a dear friend. . . .

Mrs. BOXER. Mr. President, I want to express my deepest sympathies to the Scalia family.

Justice SCALIA was first and foremost a family man, beloved by his wife, 9 children, and 36 grandchildren.

Since 1986 he had served on the highest court in our land. He inspired deep loyalty among his many friends and his current and former clerks, who remember him for his sharp wit and intellect.

He was clearly a man who rose above ideological differences with his colleagues to forge deep friendships on the Court. That is a credit to him.

While I may have disagreed with him on matters of law and policy, we are united as Americans in sharing our condolences.

WEDNESDAY, *March 2, 2016*

Mr. MCCONNELL. . . . Justice SCALIA himself reminded us that setting aside one's personal views is "one of the primary qualifications for a judge." His aim was to follow the Constitution wherever it took him, even if he disagreed politically with the outcome. We saw that when he sided with the constitutional right of protestors to burn the American flag. "If you're going to be a good and faithful judge," he said, "you have to resign yourself to the fact that you're not always going to like the conclusions you reach."

Mr. WARNER. . . . I wish to say a few words about Supreme Court Justice ANTONIN SCALIA and to offer my condolences to his family. Whether you agreed or disagreed with Judge SCALIA's decisions—and mechanically I disagreed with many of them—he was a remarkable jurist and he was a remarkable individual. Over the last 10-plus years, I got to know him and his wife Maureen more in a social setting. He

was warm, witty, charming, brilliant, and he will be missed by all who agreed or disagreed with him. My thoughts continue to be with Maureen and his family. ...

Mr. ISAKSON. ... Think about this. Ronald Reagan appointed ANTONIN SCALIA in 1986. ANTONIN SCALIA served on the Court for almost 30 years until 2016. ...

I commend ANTONIN SCALIA for being a great servant to the American people. He was a great jurist, a great writer, and a great judge. He will be missed. ...

Mr. BENNET. ... I think it is important to reflect on Justice SCALIA's life and profound contribution and influence on the Court and our country. He was one of the longest serving Justices in our Nation's history, and, as far as I can tell, every single day he served, he applied his considerable intellect, integrity, and wit to the work before him.

Although I disagreed with many of his decisions, I never doubted his commitment to the rule of law. He was a principled originalist. He was loyal to his country. By all accounts, including moving testimony from his children, he was devoted to his family and to his friends, including to Justice Ruth Bader Ginsburg, with whom he often disagreed. ...

THURSDAY, *March 3, 2016*

Mr. DONNELLY. ... the passing of Supreme Court Justice ANTONIN SCALIA—and our condolences to his family and our gratitude for all his hard work on behalf of his country ...

Mr. COCHRAN. Mr. President, with the passing of Supreme Court Justice ANTONIN SCALIA, our Nation has lost an exceptional jurist and unshakable defender of the U.S. Constitution.

Justice SCALIA will be remembered for using his substantial intellect to affect how the American public views the Constitution and the role of the courts in interpreting the law. His thoughtful opinions over nearly 30 years on the Court shaped modern jurisprudence and helped facilitate a larger discussion on the role of the Constitution in contemporary terms and application.

Justice SCALIA had an accomplished career as an attorney, law professor, General Counsel for the Office of Telecommunications Policy, Chairman of the Administrative Conference, Assistant Attorney General for the Office of Legal

Counsel for the Department of Justice, and as a judge for the U.S. Court of Appeals for the District of Columbia Circuit. It was an honor for me to support his confirmation as an Associate Justice of the Supreme Court following his nomination by President Reagan in 1986.

Justice SCALIA, who had a great love for the arts, education, and hunting, developed an affinity for the State of Mississippi and made many friends during his visits to my State. Many Mississippians shared Justice SCALIA's interest in hunting deer, duck, quail, and turkey, but his most important influence on Mississippi may result from the generous time he invested speaking to young scholars during his visits to university campuses in my State.

We mark Justice SCALIA's passing by rightfully acknowledging his many years of public service, his defense of the founding principles of our Nation, and his steadfast adherence to a conservative view of our Constitution. I am proud to have known and supported him.

I extend to his family sincere condolences and the thanks of a grateful Nation for Justice SCALIA's distinguished contributions and service to our Nation.

TUESDAY, *March 8, 2016*

Mr. CORNYN. Mr. President, as the entire country knows, it was about 1 month ago that we lost Justice ANTONIN SCALIA. Our country is still dealing with the loss of this man, whose contribution to our highest Court and the health of our Constitution cannot be overstated.

Justice SCALIA understood the actual words in the Constitution were important. He famously said that if the American people realized what the Supreme Court did on occasion, which was to substitute their value judgments instead of interpreting the Constitution and laws—rather to substitute their value judgments for those of the people and their elected representatives—they might well feel their values were superior and preferable to those of an unelected life-tenured member of the U.S. Supreme Court. That is an important reminder.

Justice SCALIA was known for expressing himself very colorfully and clearly, and he clearly was no fan of making it up as you go along, which, unfortunately, can happen when the Supreme Court chooses to substitute their values

for those of the American people rather than interpret the law and the Constitution.

Justice SCALIA was also a key figure when it came to making sure the Court policed the check of Executive power on legislative power. In other words, he believed in the separation of powers and checks and balances. I don't think it is an exaggeration to say that Justice SCALIA helped resuscitate our constitutional principles and inspired the next generation of lawyers and legal scholars and judges to care deeply about our Constitution as originally written. Because of Justice SCALIA, our republic is stronger. . . .

Mr. RUBIO. Madam President, ANTONIN SCALIA entered the world as the son and grandson of Italian immigrants in 1936. When he unexpectedly departed this life last month, he was the patriarch of a large American family and the intellectual father of the most important legal movement in generations. Between those points, he lived an extraordinarily full life that helped shaped the course of our country.

By 1980, ANTONIN SCALIA had already accomplished more at the age of 44 than most can ever hope to in a lifetime. He had been a distinguished lawyer, served at the highest levels of the government, and taught at the country's best law schools. He might have continued to develop a reputation as the Nation's brightest law professor and scholar, but providence had still more to ask of him.

Upon his election, President Ronald Reagan came to Washington with a mission to restore a country that seemed divided and in decline. He promised to rebuild our military, revive our economy, and restore our sense of purpose. Just as critical as these efforts, President Reagan was determined to bring new life to our Founders' vision of our Constitution, which provided for carefully limited government, separation of powers, and the rule of law. In accordance with that determination, Reagan appointed ANTONIN SCALIA first to the critical DC Circuit Court of Appeals and then to the Supreme Court of the United States. The three-decade judicial career that followed would establish Justice SCALIA as one of the most influential American jurists—and one of the most consequential Americans—in our Nation's history.

The Federal judiciary that ANTONIN SCALIA joined in 1982 had, for too long, both abused and shirked its proper role. It had stripped the American people and their elected representatives of their legitimate powers by inventing brand-new "constitutional rights" practically out of thin air. Just as

troubling, it had failed to uphold the very real constitutional limits on government. The courts too often treated the text of statutes as mere suggestions and often appointed themselves as a kind of superlegislature.

Justice SCALIA would not stand for this. He saw this prevailing approach of judges as an abuse of power and a threat to a free and self-governing people. For Justice SCALIA, the rule of law was the touchstone of liberty, and judges had an important role in upholding it. He understood that America has a written Constitution for clear reasons: to restrict government and preserve liberty. As a judge, ANTONIN SCALIA insisted that the Constitution be applied as written and originally understood, not freely interpreted by unelected judges. If the Constitution must change, as it has needed to throughout our history, the document itself offers an amendment process.

Justice SCALIA had a sharp and well-articulated legal philosophy that put the text and meaning of the Constitution and law front and center. A judge, Justice SCALIA believed, must put aside his policy preferences in order to say what the law is. “The judge who always likes the results he reaches is a bad judge,” he said.

Justice SCALIA lived out this approach on the bench. His majority opinions established clear and well-articulated precedents. His sharp and colorful dissents brilliantly exposed moments when too many of his colleagues preferred to put policy preferences and outcomes above the Constitution and the rule of law. For conservatives, the words “SCALIA dissents” always offered a silver lining—they meant that a likely damaging legal precedent would at least come pre-packaged with a wonderfully readable corrective.

Whether he was on the majority or minority side of a decision, the forceful logic and clear phrasing of Justice SCALIA’s opinions commanded attention and engagement. Over time, his most reliable intellectual adversaries found themselves increasingly forced to fight on the ground he established. While Justice SCALIA did not win every argument, he changed the conversation forever. Judicial activism no longer has a free hand because ANTONIN SCALIA challenged it and inspired an entire generation of legal minds to follow his example.

His judicial writing alone would have changed American law and advanced the cause of liberty, but Justice SCALIA went further than that. He wrote books, lectured, and mentored students. He traveled around the country, engaged

the media, and debated colleagues and critics. His many law clerks now distinguish themselves throughout the legal profession. The Federalist Society, which he helped nurture in its fledgling years, now provides a lively forum for a variety of conservative and libertarian perspectives on law. ANTONIN SCALIA has left us a legal culture absolutely transformed from the one he found.

Justice SCALIA's judicial opinions, legal philosophy, and forceful advocacy for the rule of law inspired me as a law student and continue to inspire me to this day. While a wide array of life experiences and values have shaped the way I see America and the world, ANTONIN SCALIA has been the single most important influence on my view of the Constitution and the proper role of judges in our republic as men and women who should put the original meaning of our Constitution ahead of their policy preferences.

Justice SCALIA's life is a testimony to the fact that ideas matter. It is proof that a person of principle, with the willingness to invest in debate and persuasion, can change history. His life also reminds us of another important truth. Particularly in these sharply divided partisan times, we can lose sight of the fact that the things that unite us are more important than the things that divide us. Justice SCALIA never did. He knew the Constitution was his sole guide in his professional life, but he was also a devout Catholic who accepted that God has a plan for all of us. He took evident joy in living out his faith, in loving his family, and in nurturing countless friendships, even with his ideological foes. We should all be grateful that God's plan for our Nation, especially the people whose paths he crossed, included having Justice SCALIA on the Court for the past 29 years. He was a role model for all of us and particularly for Christians in public life.

As a U.S. Senator, I led a bipartisan group of colleagues in filing an *amicus* brief in the Supreme Court. The brief, submitted in the case of *Town of Greece v. Galloway*, defended the practice of legislative prayer. It argued that the original meaning of the First Amendment clearly did not require the purging of religious expression from the public square. I attended the oral argument in the case and will forever be grateful for having had the opportunity to watch Justice SCALIA's sharp and incisive questioning from the bench.

Although I did not have the good fortune to get to know Justice SCALIA personally, he had a profound impact on me.

All those who cherish the Constitution and limited government mourn this great loss. Justice SCALIA was a brilliant legal mind who served with honor, distinction, and only one legal objective: to interpret and defend the Constitution as written. He is a model for exactly what his successor and all future Justices should strive to be on the highest Court in the land.

ANTONIN SCALIA left us far too soon, but his legacy will remain with us as long as we remain a republic under law.

Mrs. FISCHER. Madam President, it is an honor to pay tribute to the late Justice ANTONIN SCALIA. Justice SCALIA was a staunch defender of the Constitution who, above all, sought to uphold the original meaning of its text. He steadfastly adhered to his oath of office, which directed him to “administer justice without respect to persons, [to] do equal right to the poor and to the rich, and [to] faithfully and impartially discharge and perform all [his] duties . . . under the Constitution and laws of the United States.” In doing so, he recognized this approach to judicial interpretation might conflict with popular opinion. As Justice SCALIA once stated: “If you’re going to be a good and faithful judge, you have to resign yourself to the fact that you’re not always going to like the conclusions you reach. If you like them all the time, you’re probably doing something wrong.”

A few years ago, I had the privilege of visiting the Supreme Court to listen to oral arguments in the case of *National Labor Relations Board v. Noel Canning*, which concerned the scope of the President’s authority to make recess appointments. I recall being struck by Justice SCALIA’s probing questions and his ability to immediately get to the crux of an issue; yet Justice SCALIA never lacked civility when making an argument. As he once said, “I attack ideas. I don’t attack people. And some very good people have some very bad ideas.”

Justice SCALIA was known for more than his jurisprudence. The son of immigrants and the first Italian American to serve on the Supreme Court, he is remembered by many for his strong belief in the American dream. A former law clerk recalled how he introduced Justice SCALIA to his grandfather, a Holocaust survivor. The clerk’s grandfather was nervous to meet a member of the Court, but SCALIA embraced the man. He said he was honored to meet a man who represented everything that made him proud to be an American.

Justice SCALIA was also a loving husband to Maureen, his wife of almost 56 years, and the father of nine children and many grandchildren. ANTONIN SCALIA often noted that his wife deserved all the credit for their children's accomplishments. Each year, the ranks of Scalia alumni would grow, and he would visit with each of them and their families, even nicknaming their children as his "grandclerks." Justice SCALIA was also a man of faith and looked to the Roman Catholic Church as a guiding force in his life. One of the Justice's former law clerks recalled that SCALIA's faith inspired the clerk to deepen his own embrace of religion.

ANTONIN SCALIA loved hunting, the opera, anchovy pizza, and red wine. He was known for taking law clerks to lunch at A.V. Ristorante, an Italian restaurant in Washington that has since closed down. He insisted they order anchovy pizza and red wine, and he was said to be dismayed when a clerk declined one or the other. After A.V. Ristorante closed, he would lead clerks in a hunt for a worthy replacement.

Of course, as Justice Breyer once noted, Justice SCALIA "loved nothing better than a great argument." Although he frequently disagreed with his colleagues on the Court, Justice SCALIA formed deep bonds and friendships with his fellow Justices and respected their views. As Justice Breyer recalled:

We both would hope that the audience of students or senators would leave not with a better sense of who was right, but with a greater respect for the institution we represented. They would see that sometimes we disagreed, that we nonetheless understood and paid attention to each other's points of view, that those views were serious views, and that we were friends. And we were good friends.

When Justice Elena Kagan joined the Supreme Court the two became hunting buddies. A few times a year, they would go hunting together to enjoy a shared appreciation for this sport. But it was his deep friendship with Justice Ruth Bader Ginsburg that was well known to many. She stated recently: "How blessed I was to have a friend of such brilliance, high spirits, and quick wit . . . we were different, yes, yet one in our reverence for the court and its place in the U.S. system of governance."

Justice SCALIA will be remembered for his brilliant legal mind and faithful dedication to the Constitution. We will also remember his humor, his spirituality, his love for his family, and his ability to find common ground even in the

face of disagreement. Let us pray for his family and friends as we proudly celebrate his service to our country.

WEDNESDAY, *March 9, 2016*

Mr. COTTON. ... For a generation, Justice NINO SCALIA was the conservative heart of the Supreme Court. Whoever takes his seat will not replace him because there is no replacement ...

Mr. LANKFORD. Mr. President, on February 13, 2016, the Supreme Court lost one of its Justices, our Nation lost a true legal giant.

Justice SCALIA was described by colleagues as “extraordinary,” “treasured,” and a “stylistic genius.” Beyond his unwavering dedication to upholding the originalist viewpoint of the Constitution, Justice SCALIA was also wholeheartedly committed to his family. He was a husband, father of 9, and grandfather to 36 grandchildren.

His son Paul said of him during his homily:

God blessed Dad with a love for his family. ... He was the father that God gave us for the great adventure of family life. ... He loved us, and sought to show that love. And sought to share the blessing of the faith he treasured. And he gave us one another, to have each other for support. That's the greatest wealth parents can bestow, and right now we are particularly grateful for it.

Justice ANTONIN SCALIA was nominated to the Supreme Court in 1986 by President Reagan and was confirmed by the Senate in a unanimous vote. While his time on the Court often led to some criticism of his legal opinions and his very colorful dissents, he remained respected by his colleagues, even those at the opposite end of the judicial spectrum. This is a sign of true character—to have an open, honest debate about a particular issue while respecting the individual person holding an opinion different from your own.

Justice SCALIA said:

I attack ideas. I don't attack people. And some very good people have some very bad ideas. And if you can't separate the two, you gotta get another day job.

The sentiment was best portrayed through his friendship with Justice Ginsburg. As one of his friends, she said:

We are different, but we are one. Different in our interpretation of written texts. One in our reverence for the Constitution and the institution we serve. From our years together on the DC Circuit, we were best buddies. We disagreed now and then, but when I wrote for the Court and received a

Scalia dissent, the opinion ultimately released was notably better than my initial circulation.

Justice SCALIA was known for his wit and his sarcasm in his writings, famously referring to legal interpretations of his colleagues as “jiggery-pokery,” “pure applesauce,” and “a ghoul in a late horror movie.” Yet it was these same criticisms that Justice Ginsburg said nailed the weak spots in her opinions and gave her what she needed to strengthen her writings.

Justice SCALIA represented a consistent, constitutional voice on the Supreme Court. Just as the Constitution is the pillar of our legal system, so too is his affirmation to this foundational document of our Nation. He said:

It is an enduring Constitution that I want to defend. . . . It’s what did the words mean to the people who ratified the Bill of Rights or who ratified the Constitution, as opposed to what people today would like.

Justice Kennedy said:

In years to come any history of the Supreme Court will, and must, recount the wisdom, scholarship, and technical brilliance that Justice SCALIA brought to the Court. His insistence on demanding standards shaped the work of the Court in its private discussions, its oral arguments, and its written opinions. Yet these historic achievements are all the more impressive and compelling because the foundations of Justice SCALIA’s jurisprudence, the driving force in all his work, and his powerful personality were shaped by an unyielding commitment to the Constitution of the United States and to the highest ethical and moral standards. . . .

Justice Stephen Breyer, just a few weeks ago, stated this about the passing of Justice SCALIA, “We’ll miss him, but we’ll do our work. For the most part, it will not change.” . . .

Mr. VITTER. Mr. President, last month we all learned with great sadness of Justice ANTONIN SCALIA’s passing after nearly 30 years on the Court. He would have turned 80 years old on Friday, March 11.

In recent weeks, foremost on people’s minds as they reflect on Justice SCALIA’s legacy and his life is his dedication to the letter of the law, his respect for constitutional and statutory text, his view that the U.S. Constitution is a sacred document which must be read and adhered to.

His decisions and opinions were aimed to follow the Constitution wherever it took him, even if it may not have been to a place where he would agree politically. Justice SCALIA not only understood the importance of not legislating from the bench, but he also cared deeply about the lesson being taught by the work of the Court. Through his writings,

his opinions, including his dissents, he taught us great lessons. . . .

He wrote many opinions arguing for exactly what I am saying: Read the clear language that is at issue—either the Constitution or a statute or whatever is at issue. He wrote opinions against what before his time was rampant use of so-called legislative history, looking at the history of how a law was passed really to give people fodder to make it up as they go along and reach almost any conclusion and interpretation they want to. Justice SCALIA taught us—and he had a real impact on the Court through his decisions—that we need an unwavering commitment to principle and respect to statutory text as written.

As he often said in so many different ways, “Legislative history is irrelevant when the statutory text is clear.” In one opinion he noted that “if one were to search for an interpretive technique that, on the whole, was more likely to confuse than to clarify, one could hardly find a more promising candidate than legislative history.” . . .

The Court has strayed from Justice SCALIA’s proper philosophy of actually reading the Constitution and reading statutory text and applying it as written. So many Louisianans feel as I do; that they are making it up, in many cases, as they go along; that they are legislating from the bench; that they are using clever techniques, such as looking to legislative history—something Justice SCALIA, as I noted, railed against—as ammunition to get to whatever endpoint they desire to get to. That is not the role of any court, certainly not the role of the Supreme Court. . . .

Mr. CASEY. Mr. President, today I wish to remember Justice ANTONIN SCALIA and thank him for his service to the Supreme Court and the country.

Justice SCALIA was a first-generation American, and his life was a testament to the American dream. A student of history and the law, ANTONIN SCALIA had a commitment to public service that culminated in his appointment as an Associate Justice of the Supreme Court by President Ronald Reagan in 1986.

Justice SCALIA served on the Court for almost 30 years and in that time made many important contributions to our legal system. While he had firm convictions, he also loved people and never let ideas get in the way of friendship, most notably with fellow Justice Ruth Bader Ginsburg.

Senator Margaret Chase Smith once said, “Public service must be more than doing a job efficiently and honestly. It

must be a complete dedication to the people and to the nation.”

Justice SCALIA believed in that complete dedication. Our thoughts and prayers remain with his family at this time, and we thank him and them for his service.

THURSDAY, *March 10, 2016*

Mr. SESSIONS. Mr. President, the Nation has lost one of the greatest Justices ever to sit on the Supreme Court, ANTONIN SCALIA. My condolences and prayers go out to his wife of 55 years, Maureen, his 9 children, and 36 grandchildren.

My thought is that Justice SCALIA’s greatness was founded on the power of his ideas. His defense of those founding principles of America at the highest intellectual level is unprecedented, to my knowledge, in the United States. Over his career, he moved the legal world. As a young lawyer out of law school, I remember what the trends were and how Justice SCALIA relentlessly, intellectually, aggressively, and soundly drove the message that many of the ideas that are out there today are inconsistent with the rule of law and the American tradition.

The trend was relentlessly toward activism. Judges were praised if they advanced the law—not when they followed the law, or served under the law, or the Constitution, but if they advanced it. By advancing it, what that really means is you change it. If you advance it, it means the legislature hadn’t passed something that you would like, or the Constitution doesn’t advance an idea that you like, then you figure out a way to reinterpret the meaning of the words so it says what you would like it to say and what you wish the legislature had passed.

One of the bogus ideas at that time—you don’t hear much about it anymore, but it was current, and it was mainstream then—was that the ink-stained parchment, well over 200 years old and right over in the Archives Building, was alive. Our Constitution, they said, was a living document.

Well, how ridiculous is that? The judges said that the Constitution gave them the power to update it, advance it, and make it say what they wanted it to say. They even contended that it was the duty of the judge, not just the privilege of the judge, to advance the words of the Constitution. Justice SCALIA saw this as a direct threat, and he understood at the

most fundamental level who was threatened by it, and that was “we the people.”

You know how the Constitution begins with “We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare . . . do ordain and establish”? Well, friends and colleagues, we establish this Constitution, the one we have, not the one some judge would like it to be or some politician would like it to be but the one we have.

He boldly criticized the idea that a mere five judges—it just takes five out of nine—with lifetime appointments are totally unaccountable to the American people. We are prohibited from even reducing their pay, which I support because we want an independent judiciary. . . .

Judges need to know they are given independence and a lifetime appointment because we trust them to serve under the Constitution and not above it. They serve under the laws duly passed by the elected representatives of the people of the United States, not above those laws. They were not given the power to set policies that they would like to set no matter how strongly they feel about it. That is not what they have been given to do. He boldly criticized those ideas and those individuals and didn’t mind saying it in plain words: You are setting policy, you are not following the law.

I would say that Professor Van Aylstyne—while at William & Mary or Duke—had a great quote about this. He said, “If you really honor the Constitution, if you really respect the Constitution, you will reinforce it as it is written whether you like it or not.”

If judges today can twist the Constitution to make it say something it was not intended to mean, how might a new Court—five judges in a new age a decade or two from now—reinterpret the words to advance an agenda during that time? Isn’t that a blow to the very concept of the democratic republic we have? I think so.

I will tell you that this has been a long and tough intellectual battle. You don’t hear many people say that paper document over in the Archives is a living thing. Of course it is not a living thing. It is a contract. The American people have a contract with their government. They gave it certain powers and reserved certain powers for themselves. They reserved certain powers for their States, and the Federal Government is a government with limited power. This is abso-

lutely, undeniably fundamental, and people don't fully understand it today. . . .

One of the things that I think is very unfortunate is that judges have created an incredible amount of law that is contrary to common sense in the area of religion in the public life of America. Many of these cases are very confusing. But Justice SCALIA, in a series of cases where he wrote the majority opinion, or wrote the dissent, or wrote concurring opinions, applied the principles of the Constitution as they were intended to lay out a lawful and commonsense framework for faith in the public square. I think that is a significant achievement.

When Chief Justice Roberts came before our committee for confirmation, I remember telling him:

Sir, I would like you to try to clear up and bring some common sense to the expression of faith. You have a right to free speech in America, you have a right to the free exercise of religion under the Constitution, so how has it gotten around that you can be protected more in filthy speech than you can be protected in religious speech?

So as I said, Justice SCALIA issued a series of opinions that were important on this subject. For example, in 1992, the Supreme Court decided *Lee v. Weisman*. This case involved a challenge to a Rhode Island public school policy that permitted a member of the clergy to deliver prayers at middle school graduation ceremonies. In this instance, a rabbi had delivered a prayer at one such ceremony, and one of the families in attendance that objected brought suit, alleging that the school's policy permitting prayer at graduation was a violation of the First Amendment's establishment clause. By a vote of 5 to 4, the Supreme Court concluded that the school's policy violated the establishment clause. Justice SCALIA dissented. He wrote:

In holding that the Establishment Clause prohibits invocations and benedictions at public school graduation ceremonies, the Court—with nary a mention that it is doing so—lays waste a tradition that is as old as public school graduation ceremonies themselves, and that is a component of an even more longstanding American tradition of nonsectarian prayer to God at public celebrations generally.

Two years later, the Supreme Court decided *Board of Education of Kiryas Joel Village School District v. Grumet*. This case involved a challenge to a New York statute that tracked village boundaries to create a public school district for practitioners of a strict form of Judaism known as Satmar Hasidim. By a vote of 6 to 3, the Court concluded that the government had drawn political boundaries on the basis of reli-

gious faith in violation of the First Amendment's establishment clause. Justice SCALIA dissented. He wrote:

The Founding Fathers would be astonished to find that the Establishment Clause—which they designed to insure that no one powerful sect or combination of sects could use political or governmental power to punish dissenters, has been employed to prohibit characteristically and admirably American accommodation of the religious practices—or more precisely, cultural peculiarities—of a tiny minority sect. . . . Once this Court has abandoned text and history as guides, nothing prevents it from calling religious toleration the establishment of religion.

Ten years later, in 2004, the Supreme Court decided *Locke v. Davey*. In this case, a student challenged a Washington State statute which created a scholarship for students enrolled “at least half time in an eligible postsecondary institution in the state of Washington,” but excluded from eligibility for this scholarship students seeking degrees in devotional theology. A student sued to enjoin Washington from refusing to award him a scholarship. By a vote of 7 to 2, the Supreme Court upheld the statute. Justice SCALIA dissented. He wrote that:

When the State makes a public benefit generally available, that benefit becomes part of the baseline against which burdens on religion are measured; and when the State withholds that benefit from some individuals solely on the basis of religion, it violates the Free Exercise Clause no less than if it had imposed a special tax. That is precisely what the State of Washington has done here. It has created a generally available public benefit, whose receipt is conditioned only on academic performance, income, and attendance at an accredited school. It has then carved out a solitary course of study for exclusion: theology.

The next year, the Supreme Court decided *McCreary County v. ACLU of Kentucky*. This case involved a challenge to the placement of the Ten Commandments on the walls inside two Kentucky courthouses. By a vote of 5 to 4, the Supreme Court held that the placement of the Ten Commandments inside of courthouses was a violation of the First Amendment's establishment clause. Justice SCALIA dissented. He wrote that:

Historical practices demonstrate that there is a distance between the acknowledgment of a single Creator and the establishment of a religion. The former is, as *Marsh v. Chambers* put it, “a tolerable acknowledgment of beliefs widely held among the people of this country.” The three most popular religions in the United States, Christianity, Judaism, and Islam—which combined account for 97.7% of all believers—are monotheistic. All of them, moreover (Islam included), believe that the Ten Commandments were given by God to Moses, and are divine prescriptions for a virtuous life. Publicly honoring the Ten Commandments is thus indistinguishable, insofar as discriminating against other religions is concerned, from publicly honoring God. Both practices are recognized across such a broad and diverse range

of the population—from Christians to Muslims—that they cannot be reasonably understood as a government endorsement of a particular religious viewpoint.

More recently in 2014, Justice SCALIA dissented from a denial of *certiorari* in the case of *Elmbrook School District v. Doe*. In this case, the entire Seventh Circuit, over three dissents, held that a suburban Milwaukee public high school district violated the establishment clause of the First Amendment by holding its graduation in a nondenominational church. Justice SCALIA wrote that:

Some there are—many, perhaps—who are offended by public displays of religion. Religion, they believe, is a personal matter; if it must be given external manifestation, that should not occur in public places where others may be offended. I can understand that attitude: It parallels my own toward the playing in public of rock music or Stravinsky. And I too am especially annoyed when the intrusion upon my inner peace occurs while I am part of a captive audience, as on a municipal bus or in the waiting room of a public agency.

In this case, at the request of the student bodies of the two relevant schools, the Elmbrook School District decided to hold its high-school graduation ceremonies at Elmbrook Church, a nondenominational Christian house of worship. The students of the first school to move its ceremonies preferred that site to what had been the usual venue, the school's gymnasium, which was cramped, hot, and uncomfortable. The church offered more space, air conditioning, and cushioned seating. No one disputes that the church was chosen only because of these amenities.

In this case, it is beyond dispute that no religious exercise whatever occurred. At most, respondents complain that they took offense at being in a religious place. It bears emphasis that the original understanding of the kind of coercion that the Establishment Clause condemns was far narrower than the sort of peer-pressure coercion that this Court has recently held unconstitutional.

Although many of his dissents were memorable, not all of Justice SCALIA's notable opinions on religion in public life were issued in dissent. In 1995, Justice SCALIA wrote the opinion for the Court in *Capitol Square Review and Advisory Board v. Pinette*, where the Court rejected an establishment clause challenge to the Christmas season display of an unattended Latin cross in a plaza next to the Ohio State Capitol. Writing for the Court, Justice SCALIA said:

Respondents' religious display in Capitol Square was private expression. Our precedent establishes that private religious speech, far from being a First Amendment orphan, is as fully protected under the Free Speech Clause as secular private expression. Indeed, in Anglo-American history, at least, government suppression of speech has so commonly been directed precisely at religious speech that a free-speech clause without religion would be Hamlet without the prince.

Just last term, Justice SCALIA wrote the opinion for the Court in *EEOC v. Abercrombie & Fitch Stores*, a case about

accommodation on the basis of religion in the employment environment. In this case, a Muslim individual who wore a head scarf as part of her religious observance applied for a job at a clothing retailer, but was not hired due to the company's policy, which prohibited employees from wearing "caps." In reversing the court of appeals in favor of the applicant, Justice SCALIA wrote that:

Congress defined "religion" for Title VII purposes as "including all aspects of religious observance and practice, as well as belief." Thus, religious practice is one of the protected characteristics that cannot be accorded disparate treatment and must be accommodated.

As we see, these opinions by Justice SCALIA involve parties of varied faiths—Christians, Jews, and Muslims. Regardless of the identity of the party, Justice SCALIA's opinions on religion in public life consistently evidence a deep respect for the unique history of religious pluralism in this country and a heartfelt appreciation for its positive impact across the landscape of the Nation. While some may say his opinions are not consistent, I disagree. Religion in American life is an important and complex subject. Judges must think carefully but not abandon common sense as so many opinions have. Justice SCALIA saw limits on free exercise of religion when it came to the contention, for example, that one's religion required the use of drugs that a State had declared illegal.

So this is an important area that needs to be cleared up so that we can bring some reality to the question of the expression of religious conviction in public life. Because the Constitution says we shall not establish a religion—Congress shall not establish a religion. It doesn't say States couldn't establish a religion; it says Congress can't establish a religion. It also says "nor shall Congress prohibit the free exercise thereof." So you can't prohibit the free exercise of religion.

I think we have forgotten the free exercise clause and over-interpreted the establishment of religion. Some States at the time had established religions. Most of the countries in Europe had a religion that they put in law for their country, and we said, "No, we are not going to establish any religion here. You have the right to exercise your religious faith as you choose."

Madison and Jefferson particularly believed it was absolutely unacceptable for this government to tell people how to relate to that person they considered to be their creator. That was a personal relationship that ought to be respected and the government ought to have no role in it.

Like Madison and Jefferson, Justice SCALIA, too, believed in American exceptionalism. Indeed, he was truly exceptional. Although he will be impossible to replace, his seat on the Supreme Court will eventually be filled by the next President. After that nominee is confirmed, his or her decisions will likely impact our Nation for the next 30 years and far beyond. Next year, when we debate this eventual nominee's qualifications to assume Justice SCALIA's seat, we need look no further than his own words for wisdom to guide us as we consider our decision. In no uncertain terms, Justice SCALIA's *McCreary County* dissent reminds us that:

What distinguishes the rule of law from the dictatorship of a shifting Supreme Court majority is the absolutely indispensable requirement that judicial opinions be grounded in consistently applied principle. That is what prevents judges from ruling now this way, now that—thumbs up or thumbs down—as their personal preferences dictate.

That is the governing principle that Justice SCALIA abided by—unwavering commitment to the rule of law even when reaching the outcome that the law dictated did not align with his policy preferences. This—above all things—is the duty of a judge or Justice, and it is a principle that has fallen by the wayside far too often in recent years. It is imperative that we keep these words in mind when we consider appointments not only to the Supreme Court, but all lifetime appointments to the Federal judiciary.

I thank the Presiding Officer and yield the floor.

Mr. INHOFE. Mr. President, on February 13, 2016, Supreme Court Justice ANTONIN SCALIA passed away in his sleep. He was an enduring legacy of the Reagan administration and the conservative standard not only on the Supreme Court but for the entire American judicial community.

History will remember ANTONIN SCALIA as a stalwart defender of the Constitution and a brilliant legal mind. He authored the majority opinion on countless rulings of the Court, preserving and protecting our Nation's founding principles. His intellectual honesty, as well as his humor, will be greatly missed.

Justice SCALIA played a pivotal role in the shaping of constitutional interpretation throughout his 30-year tenure on the Supreme Court. He had within him a fervor for law and order; yet he demonstrated a warmth that resonated with many colleagues on both sides of the political divide.

ANTONIN SCALIA built meaningful relationships across that divide which were indicative of the strength of his character. Hadley Arkes, an expert in constitutional law, said that Jus-

tice SCALIA was able to “find something redeeming and likeable in just about everyone he met, regardless of politics.” This was no doubt a reflection of his strong Christian background and tremendous character.

You can learn the character of a man best by listening to how those who knew him speak of him. Former colleagues and intellectual adversaries alike are unrestrained in their kind words for Justice SCALIA.

Supreme Court Justice Stephen Breyer spoke fondly of the late Justice, saying: “NINO sparkled with enthusiasm, energy, sense of humor, insight, and seriousness of purpose—the very qualities that I and his other colleagues have benefited from in more recent years.”

Justice Thomas described ANTONIN SCALIA as a patriot with a true calling for interpreting the Constitution and noted that their relationship flourished based on that common interest. Justice Ruth Bader Ginsburg also described their relationship as close and “how blessed she was to have a friend of such brilliance, high spirits, and quick wit.”

ANTONIN SCALIA had a positive impact on so many lives as a Justice, a colleague, a father, and a friend. His demeanor was just and fair, but marked with personality and humor. Late Justice SCALIA was a staunch defender of the Constitution, rendering unbiased opinions and a unique perspective.

Mr. VITTER. Mr. President, today I honor the late Justice of the Supreme Court of the United States ANTONIN SCALIA.

During his many years of serving our country, Justice SCALIA proved to be a great defender of our constitutional liberties. Regardless of one’s politics, it is undeniable that Justice SCALIA was a true patriot whose passion for upholding our American principles was matched only by his eloquence and intellect.

Justice SCALIA’s record of public service stretched from the time President Nixon appointed him as General Counsel of the Office of Telecommunications Policy in 1971 to when President Reagan nominated him as an Associate Justice of the Supreme Court in 1986, where he served until his death in February 2016. Before and intermingled during this service, Justice SCALIA also served as an extremely talented attorney in private practice, a brilliant law professor, including for my alma mater Tulane Law School in its summer programs, and an effective leader in the U.S. Justice Department at a number of levels.

One of the single most memorable events in my time in the Senate was when Justice SCALIA agreed to visit with and

speak to me and my staff. His presence and authority impressed all of us and, as he discussed a number of topics including the importance of protecting our constitutional rights; I admit to being awestruck. It was a great honor to hear directly from one of the most significant jurists in American history, and I know my staff remember that day as clearly as I do.

One thing that distinguished Justice SCALIA was not necessarily what he did, but what he chose not to do. As a staunch adherent of limited, constitutional government, on numerous occasions, he advocated for the Court to separate itself from political fights or matters involving individuals who are free to decide their own fate. Originalism, the theory that the clear meaning given to words in the Constitution by our Founding Fathers should be honored, was prevalent in Justice SCALIA's decisions. He abhorred judicial activism, and he correctly understood that the place for instituting laws was in the legislature, where the will of the people is democratically represented.

I know that Justice SCALIA will also be remembered for his upbeat nature, affability, charm, and wit. At the heart of his larger-than-life personality was an educator, a person who not only ruled on the law, but also took the opportunity to inform readers of his opinions about the history behind the decisions.

I commend his lifetime commitment as a public servant and hope his example will inspire us all as we work to respect the Constitution and protect the freedoms of all Americans. We would be wise to follow Justice SCALIA's lead in remembering America's founding principles as we are deciding matters of the future.

I also wish to express our deepest condolences to his wife, Maureen, and to the rest of his family. I am honored to join with the rest of the U.S. Senate in celebrating the wonderful memory and lasting legacy of Justice ANTONIN SCALIA.

Mr. WICKER. Mr. President, I join my colleagues in expressing the deepest respect and admiration for Supreme Court Justice ANTONIN SCALIA. Our country has lost a brilliant, principled, and determined jurist.

For three decades, Justice SCALIA invigorated the Supreme Court, becoming an icon for constitutional originalism. He had a remarkable ability to espouse legal theory with memorable turns of phrase, and he could expose gaps in opposing opinions with laserlike precision. He did not fear differences of opinion but embraced the intellectual challenge that con-

flicting viewpoints could offer. The enduring friendships he made with those across the ideological spectrum are a true testament to his indomitable scholarship.

ANTONIN SCALIA had a distinguished career in law, academia, and public service before being confirmed to the DC Circuit and later the Supreme Court. The many accolades and achievements of his biography are well known. But ANTONIN, fondly known as “NINO,” was much more than an extraordinary legal mind. He was man of faith and family, raising nine children with his wife, Maureen.

His son, Christopher, wrote this in the Washington Post following his father’s death: “As proud as we are of his legacy as a jurist, of course it’s his presence in our personal lives that we’ll miss the most.” To his children, he was a loving father who took them to Sunday mass, listened to Bach in his study, and never shied away from playfulness at the dinner table.

We will remember Justice SCALIA in my home State of Mississippi, where we were honored to host him over the years. We shared with him our variety of Southern hospitality during his regular visits to the Magnolia State in pursuit of duck, deer, and turkey. When he wasn’t outdoors, he spent time educating the public, especially college students, delivering thought-provoking lectures at the University of Mississippi, Mississippi State University, the University of Southern Mississippi, William Carey University, and MUW.

Justice SCALIA’s unanimous confirmation as the first Italian-American Justice was a historic moment for the Supreme Court and the beginning of a legendary tenure that will have a profound effect for generations to come. He leaves a vibrant legacy—perhaps most notably characterized by his steadfast protection of the Constitution as the Framers intended it. As I said shortly after learning the news of his death, “I like to think ANTONIN SCALIA and James Madison are having the damndest visit right now.”

Mr. HELLER. Mr. President, today we honor the life and public service of Supreme Court Justice ANTONIN SCALIA, whose passing signifies a great loss for our country. Justice SCALIA was a devoted family man, scholar, and tireless public servant. He faithfully served Nevadans and all Americans for over 29 years on our Nation’s highest Court. My thoughts and prayers continue to go out to his wife, Maureen, and the entire Scalia family.

Born on March 11, 1936, to Salvatore and Catherine Scalia, Justice SCALIA was a disciplined, intellectual conserv-

ative from a young age. A diligent student who studied his way to become valedictorian at Georgetown University and graduating magna cum laude at Harvard Law School, Justice SCALIA began his legal career in Cleveland, OH, in 1961. After practicing law for 6 years in Cleveland, Justice SCALIA accepted a position teaching administrative law at the University of Virginia.

Justice SCALIA entered public service in 1972, during which he served as General Counsel for the Office of Telecommunications Policy and Chairman of the Administrative Conference of the United States. In these positions, he expanded his expertise in administrative law, a topic that interested him throughout his career. In 1974 Justice SCALIA became the Assistant Attorney General for the Office of Legal Counsel. It was here that Justice SCALIA would argue and later win his first case before the U.S. Supreme Court.

In 1982 President Ronald Reagan appointed Justice SCALIA to the Court of Appeals for the District of Columbia. Justice SCALIA's originalist mindset, keen perception, and witty writing caught the attention of President Reagan, making Justice SCALIA a top prospect to fill a potential Supreme Court vacancy. In 1986, Justice SCALIA was confirmed by the Senate upon the retirement of Chief Justice Warren Burger. As a Supreme Court Justice, Justice SCALIA would dramatically change the Court through his powerful dissents and sharp oral arguments.

Throughout his over 30-year tenure on the bench, Justice SCALIA never strayed from his conservative principles and steadfast dedication to upholding the Constitution. His prominent leadership and originalist philosophy will never be forgotten as his legacy will live on through generations. I ask my colleagues and all Nevadans to join me today in remembering and celebrating the life of Justice ANTONIN SCALIA.

Mr. CRUZ. Mr. President, ANTONIN SCALIA was one of the greatest Supreme Court Justices in the history of our country. A lion of the law, Justice SCALIA spent his tenure on the bench championing federalism, the separation of powers, and our fundamental liberties. He was a passionate defender of the Constitution—not the Constitution as it has been contorted and revised by generations of activist Justices, but the Constitution as it was understood by the people who ratified it and made it the law of the land. ANTONIN SCALIA understood that if the Constitution's meaning was not grounded in its text, history, and structure, but could instead be revised

by judicial fiat, then the people were no longer sovereign. No longer would the Nation be governed by law, which expresses the will of the people; it would be governed by, as Justice SCALIA put it, “an unelected committee of nine.” This, he believed, “robs the People of the most important liberty they asserted in the Declaration of Independence and won in the Revolution of 1776: the freedom to govern themselves.”

As one of the leading advocates of this restrained judicial philosophy, Justice SCALIA became an intellectual force on the Court, where he authored a number of noteworthy majority opinions. In 1997, for example, SCALIA wrote the opinion in *Printz v. United States*, one of the few cases in the last century where the Supreme Court has actually limited the Federal Government’s power to coerce the States. In 2001 in *Kyllo v. United States*, he led the Court in holding that the Fourth Amendment requires the government to obtain a warrant before using high-tech equipment to invade the sanctity of the home. In 2008 he penned the lead opinion in *District of Columbia v. Heller*, which finally recognized the people’s individual right under the Second Amendment to keep and bear arms.

As important as these majority opinions were, though, Justice SCALIA was even better known for his dissents, in which he let his true personality—jovial, acerbic, and witty—fully shine through. Justice SCALIA understood that changing the languishing legal culture would take drastic measures, so he wrote his dissents with a specific target in mind: law students. His aim? To delight their senses and engage their brains. To this end, he liberally employed colorful metaphors, pithy phrases, and biting logic; and he mercilessly, yet playfully, exposed the abundant flaws in the writing and reasoning of other Justices. Pure applesauce. Jiggery-pokery. Argle-bargle. If you squinted hard enough, you could almost convince yourself that G.K. Chesterton had taken a seat on the Supreme Court.

But perhaps the highest compliment I can pay to Justice SCALIA is this: Several of his key opinions went against some of his staunchest supporters—and they still loved him. Why is that?

The answer is simple: Even in disagreement, Justice SCALIA’s supporters had confidence that he did not make up his mind by reading the political tea leaves, by voting lock-step with ideological cohorts, or by working his way backward from a desired end to whatever means was necessary to reach that end. Rather, he actually attempted to interpret

the law; that is, he consistently did his best to come to a conclusion based on the only items that make a Supreme Court opinion valid in the first place: text and logic.

You don't have to take my word on this, though. Unlike many in our modern society who espouse "diversity" yet surround themselves with ideological yes-men, Justice SCALIA actively sought out opposing views. His typical practice was to hire at least one "liberal" law clerk per term so that he would always have someone calling him out for unexpected mistakes and weaknesses. In the wake of Justice SCALIA's passing, one of those clerks—a self-identified liberal—wrote the following:

If there was a true surprise during my year clerking for SCALIA, it was how little reference he made to political outcomes. What he cared about was the law, and where the words on the page took him. More than any one opinion, this will be his lasting contribution to legal thought. Whatever our beliefs, he forced lawyers and scholars to engage on his terms—textual analysis and original meaning. He forced us all to acknowledge that words cannot mean anything we want them to mean; that we have to impose a degree of discipline on our thinking. A discipline I value to this day.

I first met Justice SCALIA in 1996, when I was serving as a law clerk for Chief Justice William Rehnquist, who was a judicial gamechanger in his own right. I had the good fortune of knowing Justice SCALIA personally for 20 years. He was brilliant, passionate, and full of humor. He adored his wife, Maureen; his 9 children; and his 36 grandchildren. He had a zest for life. He relished anchovy pizzas at A.V. Ristorante Italiano, where he would take his law clerks and the clerks of other Justices. Over the decades, Justice SCALIA inspired and mentored a generation of conservatives on the bench and in legal academia.

Any advocate who stood before Justice SCALIA, as I was privileged to do nine times, knew to expect withering questions that would cut to the quick of the case. When he was with you—when he believed the law was on your side—he was ferociously with you. When he was against you, he would relentlessly expose the flaws in your case.

President Ronald Reagan could not have picked a better person to exemplify the true, nonpartisan role of a judge. A philosopher-king Justice SCALIA was not. Rather, he showed the world, with his trademark wit and impassioned personality, what a legitimate, limited, and principled judiciary would actually look like. An incomparable writer, Justice SCALIA's legacy will live on for generations. He wasn't perfect, but he was close. What his supporters—myself included—treasured especially was the rock-solid ground he

gave us on which to expect so much more from everyone else. In doing so, he, along with Chief Justice Rehnquist and others, helped spark a revolution on a Court where politics and power had been the only guideposts for decisionmaking for far too long. That, more than anything else, is Justice SCALIA's great contribution to the Nation and will be his steadfast legacy.

MONDAY, *March 14, 2016*

Mr. HATCH. Madam President, I rise to discuss the vacancy created by the death of Supreme Court Justice ANTONIN SCALIA. Those of us who knew the late Justice well are still mourning the loss of a dear friend, and the Nation is feeling the loss of one of the greatest jurists in its history. We will never find a true replacement for Justice SCALIA, only a successor to his legacy. ...

TUESDAY, *March 15, 2016*

Mr. GRASSLEY. ... This fundamental feature of our republic is critical to preserving liberty. The temptation to apply their own views rather than the Constitution has always lurked among the Justices. This led to the *Dred Scott* decision. It led to striking down many economic regulations early in the last century. And Americans know all too well in recent decades that the Supreme Court has done this regularly. Justice SCALIA believed that to ensure objectivity rather than subjectivity in judicial decisionmaking, the Constitution must be read according to its text and its original meaning as understood at the time those words were written.

The Constitution is law, and it has meaning. Otherwise, what the Court offers is merely politics, masquerading as constitutional law. Justice SCALIA wrote that the rule of law is a law of rules. Law is not Justices reading their own policy preferences into the Constitution. It is not a multifactor balancing test untethered to the text. We all know that Justices apply these balancing tests to reach their preferred policy results.

The Court is not, and should not, be engaged in a continuing Constitutional Convention designed to update our founding document to conform with the Justices' personal

policy preference. The Constitution is not a living document. The danger with any Justice who believes they are entitled to “update” the Constitution is that they will always update it to conform with their own views. That is not the appropriate role of a Justice. As Justice SCALIA put it, “The-times-they-are-a-changin’ is a feeble excuse for disregard of duty.” ...

A Justice is to question assumptions and apply rigorous scrutiny to the arguments the parties advance, as did Justice SCALIA. ...

Chief Justice Warren was infamous for asking, “Is it just? Is it fair?” without any reference to law, when he voted.

Justice SCALIA’s entire tenure on the Court was devoted to ending this misplaced and improper approach. In reality, a Justice is no more entitled to force another American to adhere to his or her own moral views or life experiences than any other ordinary American. ...

WEDNESDAY, *March 16, 2016*

Mr. ROUNDS. ... Replacing Justice ANTONIN SCALIA, who was one of our Nation’s strongest defenders of our Constitution, will be difficult. For almost 30 years, with his brilliant legal mind and animated character, he fiercely fought against judicial activism from the bench. He will be greatly missed by not only his family and loved ones but by all Americans who shared his core conservative values and beliefs. ...

I have determined that my benchmark for the next Supreme Court Justice will be Justice SCALIA himself. SCALIA’s strict interpretation of the Constitution and deference to States’ rights set a gold standard by which his replacement should be measured. ...

In another example, a woman from Estelline wrote saying: “Hearing of the passing of Justice SCALIA was heartbreaking news. ...”

We owe it to Justice SCALIA, our judicial system, and the Constitution to uphold the highest standards when determining our next Supreme Court Justice. ...

TUESDAY, *April 5, 2016*

Mr. CORNYN. . . . We recall Justice SCALIA as somebody who believed that the words of the Constitution mattered greatly, and he served on the Court for almost 30 years. Justice SCALIA was what was sometimes called an originalist. In other words, he believed the Court had an obligation to apply the Constitution and the law as written, not based on some substituted value judgment for what perhaps the unelected, lifetime-tenured judges would have preferred in terms of policy. That is not their role. They don't stand for election. It is our role as the policymakers in the political branches who do stand for election—and thus give the American people a chance to voice their pleasure or displeasure, as the case may be, with the direction that we perhaps take the country when it comes to policy. But that is not a role the Supreme Court should play. . . .

TUESDAY, *April 12, 2016*

Mr. CARDIN. . . . The late Justice SCALIA noted accurately that there is nothing in the Constitution that requires discrimination against women; but there is nothing in the Constitution that protects discrimination based upon gender. We can do a better job with fundamental changes. . . .

Proceedings in the House of Representatives

TUESDAY, *February 23, 2016*

Mr. LAMALFA. Mr. Speaker, last week our Nation lost an incredible man and jurist: Justice ANTONIN SCALIA.

As a steadfast defender of the rule of law, ANTONIN SCALIA was a pillar of the Supreme Court for nearly 30 years. He was a man of God and a champion of religious freedom.

In a recent speech, Justice SCALIA reflected on the role of faith in society. While discussing his time in Rome in the aftermath of the 9/11 attacks, he recalled watching President Bush ask God to bless our Nation and a later conversation he had with a jurist from a different country who expressed his own desire for his nation's leader to be able to publicly evoke God's name during a time of national crisis, as it was forbidden.

This moving speech serves as a reminder of the importance of fighting for our basic liberties that we hold so dearly. Justice SCALIA, who consistently demonstrated a deep understanding of what our Founding Fathers intended, was a fierce and loyal leader in this fight.

It was through his strong adherence to our Constitution, his sharp analytical mind, and his unwillingness to compromise his principles that made him a brilliant jurist; though it was his unreserved vitality and unwavering love for his country that made him a widely admired and beloved friend to his supporters and adversaries alike.

I had a chance to meet Justice SCALIA a couple of different times and hear him and even talk with him and ask him questions. Indeed, I was blessed by that.

I rise today to extend my deepest sympathies to his family. He will certainly be missed by our Nation.

Mr. McCARTHY. Madam Speaker, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 620

Resolved, That the House has heard with profound sorrow of the death of the Honorable ANTONIN SCALIA, Associate Justice of the Supreme Court of the United States.

Resolved, That the House tenders its deep sympathy to the members of the family of the late Associate Justice in their bereavement.

Resolved, That the Clerk communicate these resolutions to the Senate and to the Supreme Court and transmit a copy of the same to the family of the late Associate Justice.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the late Associate Justice.

The SPEAKER pro tempore. The gentleman from California is recognized for 1 hour.

Mr. MCCARTHY. Madam Speaker, we are adopting this resolution today in honor of Justice ANTONIN GREGORY SCALIA.

His passion, his eloquence, his intelligence, and, indeed, his courageous defense of our Constitution was unmatched. He exemplified how principles should be practiced and served as an irreplaceable beacon and guardian of federalism, of the separation of powers, and of liberty throughout his service on the bench.

Our country has not only lost a great man but a profound man, a principled man, and a good man.

I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WILSON of South Carolina. Mr. Speaker, today is our first opportunity to remember and honor the life and legacy of Supreme Court Justice ANTONIN SCALIA, with a further tribute tonight by Congresswoman Barbara Comstock of Virginia.

I am grateful for Justice SCALIA's lifetime of service to our country and his dedication to protecting and defending the Constitution. In the nearly three decades he served on the Supreme Court, he was renowned for his brilliant opinion, sharp wit, and engaging debate with attorneys.

His dedication to a strict interpretation of the Constitution never wavered, and he was beloved by his colleagues on the Court. He promoted the real constitutional intent, for judges to interpret the law, not legislating undermining democracy.

Nominated by President Ronald Reagan in 1986 and confirmed unanimously by the Senate, Justice SCALIA was the

Court's voice for opinions that upheld conservative values, such as the *District of Columbia v. Heller*, defending the right to bear arms by the Second Amendment.

Our thoughts and prayers are with his wife, Maureen, their children, and grandchildren.

In conclusion, God bless our troops, and may the President, by his actions, never forget September 11 in the global war on terrorism.

The SPEAKER pro tempore (Mr. Poliquin). Under the Speaker's announced policy of January 6, 2015, the gentlewoman from Virginia (Mrs. Comstock) is recognized for 60 minutes as the designee of the majority leader.

Mrs. COMSTOCK. Mr. Speaker, this Special Order is meant to honor the life and three decades of service of Associate Justice of the U.S. Supreme Court ANTONIN SCALIA.

Justice SCALIA was a person of great joy, great intellect, great wit, and great faith. Our Nation suffered a tremendous loss on February 13 with the passing of Justice ANTONIN SCALIA.

My husband Chip and I, my parents, and our children are deeply saddened by the passing of our friend, our neighbor, and, of course, a legal legend. He was a courageous advocate for the rule of law and the Constitution.

Justice SCALIA and his wife, Maureen, raised an incredible family of 9 children and 36 grandchildren, and we have been so privileged to know and love them.

Justice SCALIA was both a larger-than-life Justice, who leaves a profound legacy in the law, as well as a down-to-earth husband, father, grandfather, and absolutely delightful friend who loved his Lord and God, his wife and family, the law, the opera, his country, hunting, and a good laugh.

We have all heard the stories of his friendship across the ideological spectrum, none more famous than his friendship with Justice Ruth Bader Ginsburg. Justice SCALIA explained that if you can't disagree ardently with your colleagues about some issues of law and yet personally still be friends, you should get another job, for Pete's sake.

Justice Ginsburg explained: "As annoyed as you might be about his zinging dissent, he's so utterly charming, so amusing, so sometimes outrageous, you can't help but say 'I'm glad that he's my friend or he's my colleague.'"

Justice SCALIA was a shining example of fidelity, as he was ever-faithful to his oath to the law, to his family, and to his God.

He was celebrated by so many in the legal community. He was a revered mentor to the dozens and dozens of clerks who lined the steps of the Supreme Court last Friday in his honor. Every one of them, no doubt, had a story that had profound legal discussions in it but also ended with a good laugh.

He simply will be irreplaceable and leaves a legacy that will be consequential, discussed, and debated for the ages.

On the personal front, his life was also a great and consequential life. Justice SCALIA married his wife of over 55 years, Maureen, in 1960. They were set up on a blind date. He told one author that Maureen was “the product of the best decision I ever made.”

His nine children—nine, how appropriate for a Supreme Court Justice—were split five and four, five boys, four girls. They became lawyers, a priest, a poet, an Army major, and parents themselves of those wonderful 36 grandchildren.

Justice SCALIA proudly gave the lion’s share of the credit for raising this large brood to the resourceful, talented, and very smart love of his life, Maureen, who, as her son Paul said in the homily, matched him at every step. Justice SCALIA said about his children, “and there’s not a dullard in the bunch.”

His son, Father Paul Scalia, was the celebrant for his father’s beautiful funeral mass with the assistance of dozens of priests at the Basilica of the National Shrine of the Immaculate Conception this past Saturday.

Father Paul began his moving homily saying:

We are gathered here because of one man, a man known personally to many of us, known only by reputation to many more; a man loved by many, scorned by others; a man known for great controversy and for great compassion. That man, of course, is Jesus of Nazareth.

Father Paul continued: “In the past week, many have recounted what Dad did for them. But here today we reflect what God did for Dad, how He blessed him.”

Father Paul explained how his father understood that the deeper he went into his Catholic faith, the better a citizen and public servant he became. That faith now inspires his children and grandchildren and generations to come of the Scalia family and the so many lives he touched and influenced.

Justice SCALIA also had a rich tenor voice that intimidated many who came before the Court in front of him, but as his son Christopher explained, it was also perfect for reading stories to his grandchildren. His rendition of “The Night Be-

fore Christmas” was an annual tradition. He also led many sing-alongs at parties, played the piano, and also that singing would go on and on for their long car rides.

Pictures with his children and grandchildren cover the walls and the end tables and the piano of the Scalia home, and in any picture with one or more of those children or grandchildren or with his beloved Maureen, Justice SCALIA would always be beaming whenever he was around his family.

An only child himself, he loved that he gave his children the gift of many brothers and sisters. No doubt that is a great solace to all of them now, as well as a source of great strength and support for their mother.

May God bless Justice ANTONIN SCALIA, a good and faithful son, and may God bless his wife, Maureen, and their entire family, and the scores and scores of their friends and his colleagues and the millions more of admirers, and may God bless the country that he so loved.

Mr. Speaker, I yield to the gentleman from Virginia (Mr. Goodlatte), the distinguished chairman of the Committee on the Judiciary.

Mr. GOODLATTE. Mr. Speaker, I especially thank Congresswoman Comstock for leading this tribute to Justice SCALIA.

The Nation’s legal lights faded recently with the loss of the great Supreme Court Justice ANTONIN SCALIA, but they will not be dimmed for long, for Justice SCALIA left a legacy of illumination that will continue far beyond his mortal years.

Although Justice SCALIA is no longer with us on Earth, his cogent, witty, and plain-spoken writings will continue to educate law students and good citizens everywhere for centuries to come.

Justice SCALIA was no mere legal technician. He was a deep thinker who had an uncommon knack for crystallizing powerful ideas into trenchant, lasting prose. The journey on which he led his readers was always a joy, always compelling, because Justice SCALIA always made clear where the path started.

He once said: “More important than your obligation to follow your conscience, or at least prior to it, is your obligation to form your conscience correctly.” For Justice SCALIA, as with morality, so it was with the law. Justice SCALIA always made sure he built his argument on a solid foundation: the Constitution, the supreme law of the land.

As a strong defender of the rule of law, he was a gentle legal giant. Like all great educators, Justice SCALIA was respectful of others, regardless of their differing views. “I attack ideas,” he once said. “I don’t attack people. And some very good people have some very bad ideas. And if you can’t separate the two, you gotta get another day job.” That is a life lesson for all of us who engage in any debates and the ideas that undergird them.

In that spirit, Justice SCALIA often said: “My best buddy on the Court is Ruth Bader Ginsburg, has always been,” and Justice Ginsburg’s moving tribute to her own best buddy should reduce every bitter partisan to tears.

Throughout his life, Justice SCALIA correctly inveighed against the notion of a living Constitution, the misguided idea that the Constitution’s text and original meaning somehow shifted this way and that with changes in popular attitudes.

Justice SCALIA said:

That’s the argument of constitutional flexibility and it goes something like this: The Constitution is over 200 years old, and societies change. It has to change with society, like a living organism, or it will become brittle and break. But . . . the Constitution is not a living organism; it is a legal document. It says some things and doesn’t say other things.

As a lifetime-appointed Supreme Court Justice, Justice SCALIA, like all other lifetime-appointed judges, had the opportunity to effectively alter the meaning of the Constitution if he wanted and could garner the support of four of his colleagues. But like George Washington refusing the crown offered him, Justice SCALIA rejected the notion the Supreme Court should impose its own preferred policies on the country through strained constitutional interpretations.

Instead, Justice SCALIA was an ardent defender of democracy, representative democracy. As he said: “If you think aficionados of a living Constitution want to bring you flexibility, think again. You think the death penalty is a good idea? Persuade your fellow citizens to adopt it. You want a right to abortion? Persuade your fellow citizens and enact it. That’s flexibility.”

Justice SCALIA’s respect for article I of the Constitution, the article that begins with these words, “All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives,” that article, which clearly sets forth the powers of the Congress to legislate, not the executive branch

and not the courts, is one of Justice SCALIA's greatest legacies.

As much as Justice SCALIA will be remembered as an able critic of the notion of a living Constitution, he will be remembered for his own living dissents, and many majority opinions, which will live forever in the hearts and minds of lovers of the law in America and around the world.

Thank you, Justice SCALIA.

Mrs. COMSTOCK. I thank the gentleman for his remarks. I yield to my friend, the gentlewoman from Missouri (Mrs. Wagner).

Mrs. WAGNER. Mr. Speaker, I thank my dear friend and colleague, the gentlewoman from Virginia, Barbara Comstock, for organizing this Special Order and for yielding to me.

Mr. Speaker, Father Paul Scalia said in his beautiful eulogy of his father, Justice ANTONIN SCALIA, on Saturday:

We give thanks that Jesus brought him to new life in baptism, nourished him with the Eucharist, and healed him in the confessional. God blessed Dad with a deep Catholic faith, the conviction that Christ's presence and power continue in the world today through His body, the Church.

Mr. Speaker, last week our country lost one of its most outspoken and dedicated defenders of faith and liberty. For nearly 30 years, Supreme Court Justice ANTONIN SCALIA stood as a monument to a faith-based viewpoint on the Constitution that will be sorely missed.

There is no one in the history of our country who better protected the original intent of our Constitution and upheld the God-given rights of all Americans than Justice SCALIA.

Shown by his fierce dedication to defending our Constitution, from protecting Americans from government intrusion to protecting the rights of the unborn, Justice SCALIA was a man of conviction, a man of passion, and a man of integrity.

His honor and vigilance toward the original meaning of the Constitution and his historic dissents will ring throughout history. Every single ounce of Justice SCALIA's heart and soul was devoted to our country, his faith, and his family. His wit, his candor, and his character will be missed on our Nation's highest Court. The legacy of Justice SCALIA must never be forgotten.

Mr. Speaker, I stand committed today to ensure we continue to prioritize faith and freedom in this country, protecting our natural-born rights as citizens of the United States of America. It is simply the right thing to do.

Mrs. COMSTOCK. I thank the gentlewoman for her remarks.

I yield to the gentleman from Nebraska (Mr. Fortenberry).

Mr. FORTENBERRY. Mr. Speaker, I thank the gentlewoman for yielding.

When I was informed of the Justice's death, it came across my electronic devices. I texted my wife back home, and I said, "I just want to cry."

I had the extraordinary privilege of getting to know the Justice on a more personal basis. In western Nebraska there is a large outcropping. It is called Chimney Rock. Chimney Rock was the place that marked the halfway point across America. When the settlers crossed the great country, when they got to Chimney Rock, they knew that they were halfway along their journey.

In the shadow of that rock, just this last December, I was in a duck blind with Justice SCALIA who, as we all know, had that as an avocation. When you spend a couple of days in a duck blind with somebody, it is a bonding experience. You get to know them more personally.

In my own reflections about what Chimney Rock meant to the country, a bridge between the past and the future, I thought it appropriately captured the character, the nature, the wisdom of the great Justice.

He was a great student of American history, our legal system, a great protector of the Constitution and precedents. He understood how important it was to act in a consistent manner with principle while looking forward and applying that principle in ever-changing circumstances of American life. Because he did so with continuity and with consistency, he was a man of great integrity. His inner voice matched his outer voice.

When we saw this beautiful outpouring of support at his funeral from people all across the political aisle, I think the common narrative there was a deep respect for this great man.

Mr. Speaker, when he died, I felt like America lost her grandfather. He was a soaring intellect, had an incisive wit, and had in a certain sense a humble personality. He loved to share a joke. For me to have the privilege of spending some time in a personal intimate setting with him I count as an extraordinary privilege of my time in public service.

May God rest his soul. May God grant him peace. May God continue to bless the United States of America and give us all the strength to continue to think through how we are

going to elevate and form the next generation of Americans who can apply themselves in such an extraordinary, sacrificial way as Justice SCALIA did.

I remember one other comment I wanted to leave with you. I remember when the Justice asked me, "How many children do you have?" You beautifully talked about how he was so devoted to his family and faith. He asked me, knowing that I knew he had nine, how many children I had. I said, "I have five."

He paused. He said, "Respectable."

That was it.

I thank the gentlewoman from Virginia for her beautiful remarks and for giving me this moment to honor this great American.

Mrs. COMSTOCK. I thank the gentleman for his lovely remarks. Five is a good start, right, getting to that nine.

I yield to the gentleman from New York (Mr. King).

Mr. KING of New York. Mr. Speaker, I thank the gentlewoman for yielding. I especially thank her for arranging this Special Order tonight in memory of Justice SCALIA, who was truly a legal giant. He was a man who surpassed all of the intellects that I have been aware of in my lifetime. Certainly no one in the legal profession has demonstrated more of a love for the law, more respect for the law, and more respect for the original intent of the Constitution.

Now, I have nowhere near the personal contact with Justice SCALIA that the gentlewoman from Virginia (Mrs. Comstock) did or the gentleman from Nebraska (Mr. Fortenberry). I did meet him on a number of occasions. I had the opportunity to speak with him. Usually our conversations consisted of talking about the fact that we lived in working class neighborhoods in Queens. We grew up about a mile apart from each other. We both attended Jesuit high schools. That is about where the comparison ended as far as the Jesuit high schools, because he was valedictorian and I was far from it. He was a person who had the strength of somebody from the neighborhood, but he had the scholar's intellect.

He had an intellect that went beyond tremendous intelligence. It was an intellect that was shaped and framed by his deep religious faith and a belief in undiminished, lasting, and immutable principles. That is what reflected throughout his opinions. Yet he never let his own feelings or prejudices influence his thinking.

That was certainly proven in the flag burning case. If there is anyone who loved his country and would oppose the concept of the act of flag burning, it was Justice SCALIA. Yet he upheld the act as an expression of free speech, as much as it pained him.

Something that many of us in politics and government have a hard time doing is following the letter of the law, following the intent of the law, and following the meaning of the law. Somehow, we like to put in our own feelings and beliefs. The fact is Justice SCALIA told us that there is a higher principle than that.

Also he had such a respect for language. There were no easy words thrown about. There were no escape clauses or phrases. There was an intent and purpose and meaning to everything that he did. To read his opinions, whether in the majority—and knowing that he was in the majority made us feel much better—or in his dissents, you realized, again, how determined he was, how forceful he was, and how committed he was to arriving at the correct decision—one which, again, followed the original intent of the Constitution.

There were several references by Barbara Comstock to his funeral service on Saturday. Again, it was an expression by so many people of their love and respect for such an outstanding human being, a person whom I doubt we will ever see the likes of again—certainly, in our lifetimes.

He was a giant of the law. He was a giant of his faith. He was a giant of his country. I am proud to join with all of my colleagues tonight—especially Barbara Comstock, who arranged this Special Order—in honoring the memory of Justice SCALIA and hoping that that memory lives forward to carry out his unmatched love for the law, love for his country, and love for his family and his religion.

Mrs. COMSTOCK. I thank the gentleman from New York for his kind words and for bringing a New York flavor here to such a wonderful man.

I yield to the gentleman from North Carolina (Mr. Walker).

Mr. WALKER. Mr. Speaker, I thank the gentlewoman from Virginia for taking the initiative to honor such a great man.

In 1986, ANTONIN SCALIA was nominated. I was a junior in high school. I am not sure it really resonated to me at the time what the next 30 years would entail. I believe it is safe

to say that not only is he one of the strongest conservative voices of our day, but he could be of all time.

I think of his life and I think of the example that he left for all of us, whether in politics or not. It is one thing to be conservative; it is another thing to be effective. He showed with his life that he did not have to compromise his principles or his values to be effective.

When I look at his peers around him, Justice Ginsburg many times talked about the friendship and the relationship she had with him. It was genuine. He took Justice Kagan hunting. He taught her how to hunt. She killed her first big deer with Justice SCALIA at her side. What does that tell me? It tells me something that we need to remember: you can connect with people, you can hold your values, but you can have a genuine love for your fellow man.

There is much to be said about ANTONIN SCALIA's faith. Obviously, he lived it, but he lived it in a way that set an example for all of us. Yes, we get frustrated. It is OK to be angry—sometimes vertically, but never horizontally—with our coworkers, our friends, our neighbors, and our family.

He set the mark. He set it high. He was someone who could work in, arguably, the toughest environment in the world, yet still gain the respect of his political archrivals. For that, I thank him. Tonight, I honor him for showing us how to be both conservative and effective.

Mrs. COMSTOCK. I thank the gentleman for his remarks. I yield to the gentleman from Illinois (Mr. Roskam).

Mr. ROSKAM. Mr. Speaker, I thank Representative Comstock for organizing this tonight.

I just have a quick personal story, Mr. Speaker.

Justice SCALIA's daughter, Ann, lives in my neighborhood. I served in the State legislature, and I learned that this woman whose last name, obviously, was no longer SCALIA, was the daughter of Justice SCALIA. So I called her up, and I said, "If your dad is ever in town, I would love to meet him."

I was that guy, Mr. Speaker, who made that call, and she was very gracious.

Sometime later, she called me up and said, "Peter, my dad is coming in. Why don't you and your family stop by."

So the Roskams ran around the corner. My wife, Elizabeth, myself, and my four children, who were young at the time, went over and spent a few minutes on a Sunday afternoon with Justice SCALIA. He was very magnanimous and

very gracious in his blue jeans and sweatshirt, getting up off the couch, but extending himself to us.

A couple of years later, I won a seat in the U.S. House. I thought: Well, I have got a little bit of a connection. I will reach out and call him and try to make a courtesy call.

I made some contact with his chambers and his staff and they said, "Well, would you like to come over and listen to an argument?"

As a new Member of Congress, I said, "I would love to go over."

So, over I went and listened to an argument in the Supreme Court. It was very dramatic, as you know. I was walking out feeling a little bit let down because I actually wanted to say hello to Justice SCALIA. But not to be disappointed, his staff said, "Come on with us."

So I went up to his office, and there in his chambers he set out a lunch. The two of us had lunch together.

Now, who I was having lunch with was not lost on me. The magnitude, the scale, the capacity of this man and his ability to influence things on a grand scale was not lost on me. Yet he was really willing to spend some time with me that day.

I have got to tell you one other quick story.

A few years ago, I invited him to dinner. I said, "Justice SCALIA, a number of my colleagues would love to have dinner with you. Would you be willing to come out?"

Of course, he did.

I told my wife afterward: "This guy is so interesting and so charming, if he had a radio show, you would listen to it. You would set your timer so that you could listen to him."

He was so interesting, so clever, and so quick and willing to take all kinds of questions and all kinds of debate and so forth.

I just want to close by saying this. There are many times when we feel overwhelmed by events that are before us in our public life. There are many times when our constituents feel overwhelmed and they get this sense of: Is there anybody out there who has got some level of judgment and wisdom and capacity here? Are there any examples and role models?

The answer is: Justice SCALIA. He is an example. He is an example that we are all the beneficiaries of: his clear mind; his capacity to disagree without being disagreeable; his capacity to build people up; his capacity to articulate a world view; his capacity to be a faithful and vocal follower of his savior, Jesus, and not be defensive about it; and to basically

invite people along to celebrate and to participate in this great gift, which is our democracy.

Even in these short interactions that I had with him, you always got the sense—or, I did—that he got the joke. In other words, there was a twinkle in his eye.

This is a democracy and we have got roles to play. His role on the Court was to do his thing. Our role, Mr. Speaker, is to legislate with that same sense of commitment and character and tenacity and clarity that Justice SCALIA brought to his role on the judiciary.

So, I want to honor Justice SCALIA. I want to honor his wife, Mrs. Scalia. I want to honor his children and grandchildren. I thank them, because it is a sacrifice for them to have someone of that caliber and that capacity in that role for our country. It is not a burden that is easy, but they have been willing to bear that burden. Our country is better off for it.

Mrs. COMSTOCK. I thank the gentleman for those lovely memories.

In the outpouring that we saw in his passing, one of the pictures that I saw from a neighbor was a picture of Justice SCALIA, who was probably coming home from a long day at work, and some children on our street had a lemonade stand. He had stopped and gotten out there to support those little entrepreneurs. The mom came out and took a picture of them. He was there beaming with those kids, in his suit, all dressed up, and these little kids were there with their lemonade stand and so proud.

He really did take the time that my friend, Mr. Roskam, spoke about and really just engaged and loved life so much.

I yield to the gentleman from Florida (Mr. DeSantis).

Mr. DESANTIS. I thank my colleague from Virginia for organizing this fitting tribute to somebody who really did make a difference.

Very few people who serve not only in the judiciary, but really at any level of government, leave the lasting mark that ANTONIN SCALIA did. He will join the likes of John Marshall, Joseph Story, and Robert Jackson as one of the all-time greats in American law.

I think of all the great things you can say about him. He was sharp, he was witty, and he wrote brilliantly. I think the reason why he is a titan of modern American law is because he insisted on discharging the judicial duty in a way that strengthened our overall constitutional order.

He insisted on textualism when you are interpreting statutes. He had an originalist outlook when you are talking about the constitutional interpretation. Those frames of reference really vindicated the separation of powers.

The judicial power under article III is to decide cases and controversy. So you have cases before you that you have got to decide. It is not to go out and be a roving superlegislature. It is not to impose your philosophy on society. You decide cases.

So, once judges free their decisionmaking from the objective meaning of the law in the Constitution, they are taking away power belonging to the American people that should be exercised through their Representatives. Justice SCALIA always understood that. He was always insistent that judges have an objective standard when they are discharging their duty.

When you talk about textualism, you read the statute for what it says. You don't correct the statute. You don't amend the statute. You don't find subjective views of some random legislature who happened to say something in a committee hearing. You actually apply the words as written. That is the judicial task.

When you do that, you are basically vindicating the power of the Congress and of the people's elected Representatives, because they are the ones who wrote the law. If the courts depart from that, then they are departing from what the elected Representatives did.

I am sure he saw countless statutes that were asinine as a matter of policy, but he said, "That is not my job to correct that." So he is absolutely vindicating the separation of powers in the constitutional order.

The same thing with constitutional interpretation. Before Justice SCALIA took the bench, this was a freewheeling thing. Judges would say: Society matures and it is up to us to, effectively, update the meaning of the Constitution.

That means you have five lawyers—unelected, unaccountable—that serve as an effective roving constitutional convention that can change the Constitution based on one case that happens to come in front of them.

That was something that Justice SCALIA thought was totally outside the bounds of the proper judicial role. He said the Constitution has a fixed, enduring meaning, and it is our job as judges to ascertain that meaning and apply it to the cases and controversies before us.

So, if you look at a figure that has had more impact on how we think about the law and the Constitution over the last 50 years, you are not going to find one that surpasses Justice ANTONIN SCALIA. He was a great American in every respect. He fought the good fight. He finished the race. He kept the faith. What a good guy. What a life.

Mrs. COMSTOCK. I yield to the gentleman from Pennsylvania (Mr. Rothfus).

Mr. ROTHFUS. I thank my colleague, the gentlewoman from Virginia, for organizing this Special Order on behalf of this remarkable American.

On February 13 of this year, our country lost a giant. His legacy will never fade. Justice SCALIA influenced countless jurists, attorneys, law students, and everyday Americans. My thoughts and prayers have been with his wife, Maureen, Father Paul, and the entire Scalia family since the passing of this outstanding American statesman.

Regardless of whether one agreed with his opinions on the Supreme Court, this man's consistent integrity and admirable character cannot be denied. In both word and action, he was a man of the strongest character and deepest virtue.

This was evident in the commencement address he gave to the graduating class of the College of William & Mary in 1996, when he said:

Bear in mind that brains and learning, like muscle and physical skill, are articles of commerce. They are bought and sold. You can hire them by the year or by the hour. The only thing in the world that is not for sale is character.

The way he lived out the virtues of integrity and humility did not go unnoticed.

Several weeks ago, we here in Washington had the opportunity to go to the National Prayer Breakfast, which attracted Members of Congress, the President, Senators, Ambassadors, people from all over the world, and we were treated with an appearance by famed tenor Andrea Bocelli.

I think that Justice SCALIA would have enjoyed his appearance and his appreciation for opera.

In addition to his wonderful renditions of "*Panis Angelicus*," which, again would have been another treat for Justice SCALIA, and "Amazing Grace," Mr. Bocelli lamented the dark shadow that war casts on the world and expressed concern for its victims, identifying war as a major problem in our world today.

But then it was interesting. Mr. Bocelli stated: "There is that small, hateful word, 'hubris,' already known in antiquity." The ancient Greeks used it to define pride and the arrogance it entails.

Bocelli's use of the word "hubris" was compelling in that he spoke it in the center of power here in the United States.

That word conjures a theme that we have seen in Justice SCALIA's work. Justice SCALIA went about his task of considering significant constitutional and legal issues of the day with a profound and seldom seen humility about the role of courts in our country.

They are not there to impose their own beliefs on the people, but to adjudicate competing claims in the context of a Constitution that has enduring meaning.

To interpret the law in any other way otherwise aggrandizes power to a select few, a power that was never intended by the Founders. This humility of position that Justice SCALIA had I believe will be a lasting legacy.

Regardless of whether one agrees with Justice SCALIA from a policy perspective, his writings reflect a profound respect for an understanding of our system of government and an unparalleled respect for an interpretation of the Constitution grounded in text and in history. For this our Nation should be forever grateful.

May he rest in peace.

Mrs. COMSTOCK. I thank the gentleman, and I thank all of my colleagues for their comments.

Mr. Speaker, I really appreciate this opportunity for all of our colleagues to join us in celebrating the life of this great man, Justice SCALIA, who so many of us were privileged to know and count as a friend.

For anyone who would like to view the beautiful mass of Christian burial for Justice SCALIA that was presided over by his son, Father Paul Scalia, who gave a beautiful homily, that can be found on C-SPAN. I appreciate that that was covered.

I also, again, appreciate this opportunity to celebrate this beautiful life, this family.

I yield back the balance of my time.

Mr. GOHMERT. Mr. Speaker, I rise tonight in tribute to one of the greatest jurists in this Nation's history. Justice ANTONIN SCALIA had a preeminent mind following an excellent education. He has a beautiful family and has already been very sorely missed.

I thought it might be helpful, Mr. Speaker, to get a sense of the man and how profoundly concerned he was with the place in which this country finds itself after world wars, after depressions, after all kinds of threats: a massive civil war in the 1860s, all kinds of things that have threatened this Nation, even the War of 1812 during which this Capitol was set on fire.

There were all of these threats; yet, at this time in which we live, he could see and he tried to sound the warning alarms for what the majority of the Supreme Court was doing to this country.

It seemed to be encapsulated rather well back in the June 12, 2008, decision in the case of *Boumediene v. George W. Bush, President of the United States*, combined with another case.

The decision of the majority of the Court, as Justice SCALIA pointed out, was so totally inconsistent with the majority's own majority opinion in a prior case regarding people who were captured on the battlefield and who were clearly at war with the United States.

Throughout the history of warfare at least among civilized nations during the period of warfare, the civilized thing to do was to hold those who were at war with you until such time as the groups they represent, they come from, declare they are no longer at war with you.

Then they can be released unless they have committed some heinous crime for which they should account beyond that of being part of the war against the Nation.

The Supreme Court majority had previously said basically that, of course, the Constitution gives the Congress the power to create tribunals, to create courts.

As my former constitutional law professor said, there is only one Court in the whole country's Federal system that owes its creation to the U.S. Constitution, and that is the U.S. Supreme Court. All other Federal courts, tribunals, owe their existences and their jurisdictions to the U.S. Congress.

So the majority Court had previously said, in effect, that Congress could, in cases where enemy combatants are seized on the battlefield, hold them without right of writ of habeas corpus, because that has basically been the history of civilized warfare.

Obviously, in uncivilized warfare, people were taken, abused, tortured, made slaves. That has happened throughout the history of mankind. But for nations that were civ-

ilized, you simply held them, hopefully, in humanitarian conditions.

In the *Boumediene* case, Justice SCALIA started his dissent by writing:

I shall devote most of what will be a lengthy opinion to the legal errors contained in the opinion of the Court. Contrary to my usual practice, however, I think it appropriate to begin with a description of the disastrous consequences of what the Court has done today.

Justice SCALIA went on:

America is at war with radical Islamists. The enemy began by killing Americans and American allies abroad: 241 at the Marine barracks in Lebanon, 19 at the Khobar Towers in Dhahran, 224 at our embassies in Dar es Salaam and Nairobi, and 17 on the USS *Cole* in Yemen.

On September 11, 2001, the enemy brought the battle to American soil, killing 2,749 at the Twin Towers in New York City, 184 at the Pentagon in Washington, DC, and 40 in Pennsylvania.

It has threatened further attacks against our homeland; one need only walk about buttressed and barricaded Washington or board a plane anywhere in the country to know that the threat is a serious one. Our Armed Forces are now in the field against the enemy, in Afghanistan and Iraq. Last week, 13 of our countrymen in arms were killed.

The game of bait-and-switch that today's opinion plays upon the Nation's Commander in Chief will make the war harder on us.

What comes next is, perhaps, one of the most profound statements that any Justice on the Supreme Court ever put in writing, but he was right. Being right in his discernment of the Supreme Court's decision, he knew he needed to put this next sentence in print.

So, in talking about the majority opinion, Justice SCALIA wrote this: "It will almost certainly cause more Americans to be killed."

He wrote: "That consequence would be tolerable if necessary to preserve a time-honored legal principle vital to our constitutional Republic. But it is this Court's blatant abandonment of such a principle that produces the decision today. The President relied on our settled precedent in *Johnson vs. Eisentrager*"—this was back in 1950—"when he established the prison at Guantanamo Bay for enemy aliens. Citing that case, the President's Office of Legal Counsel advised him 'that the great weight of legal authority indicates that a federal district court could not properly exercise habeas jurisdiction over an alien detained at Guantanamo Bay.'"

Further down, the Justice writes:

In the short term, however, the decision is devastating. At least 30 of those prisoners hitherto released from Guantanamo Bay have returned to the battlefield.

But others have succeeded in carrying on their atrocities against innocent civilians. In one case, a detainee released from Guantanamo Bay masterminded the kidnapping of two Chinese dam workers, one of whom was later shot to death when used as a human shield against Pakistani commandos.

Another former detainee promptly resumed his post as a senior Taliban commander and murdered a United Nations engineer and three Afghan soldiers. Still another murdered an Afghan judge. It was reported only last month that a released detainee carried out a suicide bombing against Iraqi soldiers in Mosul, Iraq.

Their return to the kill illustrates the incredible difficulty of assessing who is and who is not an enemy combatant in a foreign theater of operations where the environment does not lend itself to rigorous evidence collection.

Justice SCALIA goes on:

During the 1995 prosecution of Omar Abdel Rahman, federal prosecutors gave the names of 200 unindicted coconspirators to the “Blind Sheikh’s” defense lawyers; that information was in the hands of Osama Bin Laden within two weeks.

Justice SCALIA went on to write page after page, explaining the perils that the overzealous and underthinking majority of the Court had imposed on the United States, on our military.

Justice SCALIA made clear, when it comes to war, the decision that the majority made was to basically tell our military: Instead of protecting yourselves and protecting your brothers and sisters in arms, we are going to require you to go out there, gather up DNA evidence, get blood evidence, maybe just drive a forensic wagon out there onto the field of battle. Start gathering evidence because some moronic person in a palace in Washington—“palace” being what some of the Justices who first went through the new Supreme Court Building said about it back in 1935, that palace in which they reside—has said that, in a time of war, we have lost our mind in America, and we are going to now start putting our military at risk of their very lives so they can go gather up evidence to satisfy some bloated judge in a palace in Washington.

That is why he made the profound statement that he did in this dissent.

His words will almost certainly cause more Americans to be killed. That is extraordinary.

Dear Justice SCALIA finished the dissenting opinion by saying:

Today the Court warps our Constitution in a way that goes beyond the narrow issue of the reach of the Suspension Clause, invoking judicially brainstormed separation-of-powers principles to establish a manipulable “functional” test for the extraterritorial reach of habeas corpus (and, no

doubt, for the extraterritorial reach of other constitutional protections as well). It blatantly misdescribes important precedents, most conspicuously Justice Jackson's opinion for the Court in *Johnson v. Eisentrager*. It breaks a chain of precedent as old as the common law that prohibits judicial inquiry into the detention of aliens abroad absent statutory authorization. And, most tragically, it sets our military commanders the impossible task of proving to a civilian court, under whatever standards this Court devises in the future, that evidence supports the confinement of each and every enemy prisoner.

The Nation will live to regret what the Court has done today. I dissent.

What a magnificent man. What a brilliant man with extraordinary common sense.

So, Mr. Speaker, my staff helped me. We have all been picking out favorite quotes that Justice SCALIA has provided, both in written opinion and in speeches.

One of Justice SCALIA's statements was: "Never compromise your principles, unless, of course, your principles are Adolph Hitler's, in which case you would be well-advised to compromise them as much as you can."

Another statement by Justice SCALIA was: "More important than your obligation to follow your conscience, or at least prior to it, is your obligation to form your conscience correctly."

Justice SCALIA said:

You think there ought to be a right to abortion? No problem. The Constitution says nothing about it. Create it the way most rights are created in a democratic society. Pass a law. And that law, unlike a constitutional right to abortion created by a court, can compromise.

Justice SCALIA said, "A Constitution is not meant to facilitate change. It is meant to impede change, to make it difficult to change."

Brilliant statement.

Some think the Constitution is a living, breathing document. I have discussed this over at the Supreme Court palace with him, and I have discussed it with him at lunches, breakfasts.

There are a handful of special privileges that I count myself blessed to have been able to enjoy, and one of those handful has been time spent with Justice SCALIA. He had an incredible sense of humor. He could crack me up. Most of the time, he meant to. Sometimes his sarcasm was just too humorous not to laugh. He attacked himself with self-effacing humor.

He said this: "I attack ideas. I don't attack people. And some very good people have some very bad ideas. And if you can't separate the two, you gotta get another day job."

He was a funny man, but a brilliant man. God blessed that man with wisdom.

Justice SCALIA said:

I love to argue. I've always loved to argue. And I love to point out the weaknesses of the opposing arguments. It may well be that I'm something of a shin kicker. It may well be that I'm something of a contrarian.

He said, "Well, we didn't set out to have nine children"—talking about his beautiful family. He said, "We're just old-fashioned Catholics, you know."

Justice SCALIA said, "I think Thomas Jefferson would have said the more speech, the better. That's what the First Amendment is all about."

Today I see around our college campuses conservatives like me are often shunned. I am grateful to have been invited to speak at Oxford in England and at Cambridge. But it is amazing that places like my conservative Texas A&M, there are students there—much fewer there, but all over the country at what are supposed to be enlightened universities—that don't want to hear any view different from their own.

When I was at A&M, I mean, I helped host Ralph Nader. I didn't agree with him on much, but I loved the exchange with him, the thoughts that went back and forth. He was a very intriguing man. We weren't afraid of discussions with liberals.

It is one of the things I loved about Justice SCALIA. He was so brilliant, so grounded. His faith was so strongly standing on God's Word, the Bible. He knew who he was. He knew whose he was, and he knew whose were his, and he loved his family dearly.

Justice SCALIA said:

Undoubtedly, some think that the Second Amendment is outmoded in a society where our standing army is the pride of our Nation, where well-trained police forces provide personal security, and where gun violence is a serious problem. That is perhaps debatable, but what is not debatable is that it is not the role of this Court to pronounce the Second Amendment extinct.

It was absolutely a great dissent. Pointing out the hypocrisy, the flawed thinking, the incredible poor quality of the writing in the majority opinion in the *Obamacare* decision, Justice SCALIA said:

This Court, however, concludes that this limitation would prevent the rest of the act from working as well as hoped. So it rewrites the law to make tax credits available everywhere. We should start calling this law SCOTUSCare instead of Obamacare.

The Supreme Court of the United States care, how about that?

He went on to say:

Under all the usual rules of interpretation, in short, the government should lose this case. But normal rules of interpretation seem always to yield to the overriding principle of this Court: The Affordable Care Act must be saved.

He goes on. It says:

If a bill is about to pass that really comes down hard on some minority and they think it's terribly unfair, it doesn't take much to throw a monkey wrench into this complex system. Americans should appreciate that; they should learn to love the gridlock. It's there so the legislation that does get out is good legislation.

Mr. Speaker, it brings to mind a discussion I heard him have with some people from my district, some senior citizens that were coming to Washington, 50 or 60. They had asked me, "They say you are friends with Justice SCALIA. Do you think we could meet him?"

I felt comfortable enough to call him. He said, "Sure. Bring them."

So we worked it out, brought them through the side entrance, came into a meeting room. They were all seated there when Justice SCALIA came walking in. He leaned up against the table in front of them, and they were kind of in awe because they knew how brilliant Justice SCALIA was.

He said, "Well, you wanted to meet me. Here I am. What questions have you got?"

It kind of took the group aback, so people were struggling to try to come up with a question. Finally, one of them said, "Well, Justice SCALIA, wouldn't you say that we are the freest Nation in the history of the world because we have the best Bill of Rights?"

In typical SCALIA style, he said, "Oh, gosh, no. The Soviet Union had a much better bill of rights than we have got. It guaranteed a lot more freedoms than we have."

I've forgotten, but in college I made an A on a paper that discussed the Soviet constitution and the bill of rights. He was right. That old Soviet bill of rights guaranteed all kinds of rights, but it didn't protect them.

He went on to say—and I am not quoting exactly—but the gist of what he had to say is, now, the reason America is the most free Nation in the history of the world is because the Founders didn't trust the government, so they made it as difficult as they could to pass a law. It wasn't enough to have one House; they wanted two Houses, and not like England

where one of them doesn't have all that much authority. They wanted two Houses where either one of them could stop a law from being passed. So even if one House were successful in finally getting a majority of people to agree on a law, then the other House would have to agree, and they could stop it completely in its tracks.

That wasn't good enough. They wanted another check and balance, another way to stop law. They wanted to create gridlock. So they said: You know what? We don't want a parliamentary system where the legislators elect a prime minister. No. We want an Executive elected totally different from the legislature. So we will have him elected in a whole different way, and then he can stop any law they may try to pass. And that is not good enough. Let's create another branch, the judiciary branch, and then they can nix anything that is passed.

No, we are the most free Nation in history because the Founders didn't trust government and they made it as hard as possible to pass laws.

Justice SCALIA said in one of his dissents, "I have exceeded the speed limit on occasion."

He said, "A man who has no enemies is probably not a very good man." ...

He said:

If you're going to be a good and faithful judge, you have to resign yourself to the fact that you're not always going to like the conclusions you reach. If you like them all the time, you're probably doing something wrong.

I've experienced that myself. There were times I disagreed with the law, but it was constitutionally made and passed, and I followed the law as a judge and chief justice. That is exactly what he did.

In a dissent in 1996, Justice SCALIA said, "The Court must be living in another world. Day by day, case by case, it is busy designing a Constitution for a country I do not recognize."

Ten years later, in 2006, he said:

So the question comes up, is there a constitutional right to have homosexual conduct? Not a hard question for me. It's absolutely clear that nobody ever thought when the Bill of Rights was adopted that it gave a right to homosexual conduct. Homosexual conduct was criminal for 200 years in every State. Easy question.

He made those statements in remarks at the University of Fribourg, Switzerland, back in 2006.

In 2009 he said, “The Court today continues its quixotic quest to right all wrongs and repair all imperfections through the Constitution. Alas, the quest cannot succeed.”

He also said:

This case, involving legal requirements of the content and labeling of meat products such as frankfurters affords a rare opportunity to explore simultaneously both parts of Bismarck’s aphorism that “no man should see how laws or sausages are made.”

He said, “God has been very good to us. One of the reasons God has been good to us is that we have done him honor.”

Certainly, Justice SCALIA did God honor.

A lot of people don’t realize what a tenderhearted man he was as well. After the horrendous murder of Justice Michael Luttig’s father and the assault and attempted murder of his mother in their own garage, two streets over from my house, the family did not want to call Michael and describe the horrors that had been inflicted on his father and mother.

In the middle of the night, Justice SCALIA was in bed. Justice SCALIA got called, and he went out to Michael Luttig, Judge Luttig’s house, and let him know in the wee hours of the morning that his father had been killed. Justice SCALIA, for whom Judge Luttig had clerked, knew Michael Luttig loved him. He put on his warmup suit and went out in the middle of the night many miles away because he cared.

As I conclude, Mr. Speaker, I thought about the words of John Quincy Adams in the *Amistad* case. He didn’t think he had won the case. He was finishing. He was afraid he had not done an adequate job defending these Africans who should be free and should be free to go where they wanted without chains, without bondage.

So he finished his argument by saying, and this is John Quincy Adams, 1841, in the Supreme Court:

As I cast my eyes along those seats of honor and public trust, now occupied by you, they seek in vain for one of those honored and honorable persons whose indulgence listened then to my voice. Marshall, Cushing, Chase, Washington, Johnson, Livingston, Todd—where are they? Where is that eloquent statesman and learned lawyer who was my associate counsel in the management of that cause, Robert Goodloe Harper? Where is that brilliant luminary, so long the pride of Maryland and of the American Bar, then my opposing counsel, Luther Martin? Where is the excellent clerk of that day, whose name has been inscribed on the shores of Africa, as a monument of his abhorrence of the African slave trade Elias B. Caldwell? Where is the marshal? Where are the criers of the Court? Alas, where is one of the very judges of the Court, arbiters of life and death, before whom I commenced the anxious argument, even now prematurely closed? Where are they all? Gone. Gone. All gone. Gone from the services which, in their day and gen-

eration, they faithfully rendered to their country. I humbly hope, and fondly trust, that they have gone to receive the rewards of blessedness on high.

In taking, then, his final leave of the bar there at the Supreme Court, John Quincy Adams said he hoped that every member of the Supreme Court may go to his final account with as little of earthly frailty to answer for as those illustrious dead.

He said:

That you may, every one, after the close of a long and virtuous career in this world, be received at the portals of the next with the approving sentence: "Well done, good and faithful servant, enter thou into the joy of thy Lord."

Mr. Speaker, I have no doubt whatsoever that Justice ANTONIN SCALIA, my friend, our friend, the luminary of the Supreme Court, heard those words days ago: "Well done, good and faithful servant."

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I rise today in memory and in sorrow of the passing of Justice ANTONIN SCALIA, who was truly larger than life. He will go down in history as one of America's greatest Supreme Court Justices. He was a champion for freedom and the Constitution, a great family man and a devout man of faith. I submit this poem penned in his honor by Albert Carey Caswell.

Larger,
larger than life
America's son,
oh so very bright
ANTONIN,
for all of America you held the night
As you stood with all of our best in America's light
Same as all of our Forefathers in sight
Who shone in liberty's sheen so very bright
Of something which gleams into the night
Of this our most beloved document seen of this sight
Who'd the United States Constitution recite
Which built this country,
not out of luck or by circumstance
But by the bedrock upon which all of us have advanced
The very foundation upon which all of our freedoms so stand
Of such consequence through the decades which commands
To weather all of the storms,
and battle all of tyranny in all of its forms
For no other Nation in this entire world,
has had such freedoms upon its citizens unfurled
For you Justice SCALIA,
were but the guardian for all of our children and their future world
And even your detractors knew you were larger than life,

while upon you their arguments they hurled
 As you stood there with sword in hand
 With your pen, your wit, your charm, and your mind to take command
 All so freedom could stand
 For you had the gift,
 of all of your opponents respect and love as so was this
 If only we had more men like you in this world,
 who against such divisiveness could rise above like a pearl,
 then we'd have such the bliss
 And your greatest love of all,
 was that of your magnificent family we saw
 Of what you left behind,
 to spread out through time
 Your seeds of love to remind,
 that the gift of love and life are oh so very divine
 And just like our Forefathers you were a true man of God
 For the freedom to worship they stepped upon this very sod
 No other country across the world,
 has so been formed out of God
 And your two greatest reads,
 The Bible and The Constitution brought to your soul such glee
 To arm you in the battle for all you would need
 Now Marshall and all of the greats,
 have another equal for history to so contemplate
 Brilliant, Brilliant, Brilliant you were my son in so many ways
 Your written opinions and quest for justice,
 disarmed all of those arguments and held them at bay
 Indeed it's a very sad day
 For America's loss,
 comes at such a high cost
 Because such men like you ANTONIN are larger than life,
 and keep all of our freedom's burning bright
 As our world just got a little bit darker this night
 We pray that America too will follow your light
 Supreme,
 at the top,
 as into the future upon lips of lawyers and law students,
 your name shall never stop
 Rest
 Rest my son
 Rise up to heaven ANTONIN where you so belong
 As an Angel in The Army of our Lord so very strong
 To watch over us you American song
 And larger than life,
 and your memory will ever live on
 God Bless you America's son,
 as you did her the day you were born
 Amen

Mr. GOHMERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 19 minutes p.m.), under its previous order and pursuant to House Resolution 620, the House adjourned until tomorrow,

Wednesday, February 24, 2016, at 10 a.m., for morning-hour debate, as a further mark of respect to the memory of the late Honorable ANTONIN SCALIA, Associate Justice of the Supreme Court of the United States of America.

WEDNESDAY, *February 24, 2016*

Ms. JACKSON LEE. Mr. Speaker, ten days ago, on February 13, 2016, the Nation was saddened to learn of the death of Justice ANTONIN SCALIA, the senior Associate Justice of the Supreme Court.

Justice SCALIA, who loved the Court, served it ably for nearly 30 years and was involved in some of the most consequential cases in history. . . .

In fact, Justice SCALIA would say to anyone claiming otherwise, “*Leges posteriores priores contrarias abrogant*,” which is Latin for the canon of judicial interpretation that “the last expression of the people prevails.” . . .

FRIDAY, *February 26, 2016*

Mr. GOHMERT. . . . It sometimes shocks people that a conservative like me can have some very liberal friends, just like the great ANTONIN SCALIA was very close friends with Ruth Bader Ginsburg. They had totally different views. He believed in upholding the letter of the law of the Constitution and she didn’t, but they were friends.

MONDAY, *February 29, 2016*

Mr. JEFFRIES. . . . We know that Justice ANTONIN SCALIA has moved on after a long and distinguished career. Though I disagree with almost every single judicial opinion that he has issued, he served this Nation well.

Mr. JEFFRIES. . . . What I haven’t been able to understand is this Justice who I have disagreed with on many issues. Although he was strong—Justice SCALIA—on the privacy rights of the American people, the Fourth Amend-

ment—he was concerned about the criminalization of politics, these are areas where there is some common ground.

And certainly he was a giant in terms of legal thought. ...

TUESDAY, *March 1, 2016*

Ms. JACKSON LEE. ... Justice SCALIA may have had many qualities but none endeared him more to his admirers on that debate stage and across the country than his professed devotion to the rule of law, his exaltation of the doctrine of “original intent,” and his insistence that the meaning of the Constitution is to be divined only from the strictest reading of the text. ...

WEDNESDAY, *March 2, 2016*

Ms. SPEIER. ... It is important to quote what the late Justice SCALIA said about discrimination against women. He was a constitutional expert, an originalist, and he said the following: “Certainly the Constitution does not require discrimination on the basis of sex. The only issue is whether it prohibits it. It doesn’t.”

When I read that quotation by Justice SCALIA—may he rest in peace—I had shivers up and down my spine because it was so direct. It was so clear. It makes the point that the Constitution of this country does not prohibit discrimination based on sex, even though the vast majority of Americans believe it is already in the Constitution.

Ninety-six percent of U.S. adults believe that male and female citizens should have equal rights, and 72 percent mistakenly believe it is already in the Constitution. As Justice SCALIA pointed out, it is not. ...

THURSDAY, *March 17, 2016*

Mr. KING of Iowa. ... We have just said goodbye to one of the great Justices in the U.S. Supreme Court, Justice SCALIA, who often said that, when he made a decision based on the Constitution and he was uncomfortable with the policy that resulted from that constitutional decision, he was most comfortable that he had made the right constitutional

decision when he disagreed with a policy result of that decision. . . .

THURSDAY, *April 14, 2016*

Mr. KING of Iowa. Mr. Speaker, it is my privilege to be recognized by you to address you here on the floor of the U.S. House of Representatives.

I come to the floor here today with an issue that I think is important that America have a dialog on the topic, and some of that is going on. It is going on in the Presidential races across the country and in the coffee shops and at work, at play, at church, and around the country in the things that we do.

But then a moment in history comes along that shocked a lot of us to the core—and that was the abrupt and unexpected loss of Justice ANTONIN SCALIA, a person whom I got to know. I would like to say that I called him a friend. He was a person whose personality I enjoyed a lot, his robust sense of humor, his acerbic wit in the way that he conveyed his messages, especially when he wrote the dissenting opinions for the Supreme Court. He found himself occasionally in the minority, but I think he was almost always right in those constitutional decisions.

When Justice SCALIA wrote those minority opinions, he realized that—and he just thought in advance—the students in law school would have to read the dissenting opinions as well as the majority opinions.

So he made sure when he wrote especially his dissenting opinions that they were engaging, they were entertaining, they were provocative, and they were challenging. It caused the law school students to read those and remember the points that Justice SCALIA had made.

That is a legacy of the 29 years of Justice SCALIA that will live within the annals of the history of the United States of America, especially those who are studying constitutional law and those that are in law school. . . .

What we have in front of us is this: The loss of Justice SCALIA leaves an empty seat on the Supreme Court. It is an intellectual hole, not just a voting hole. But it is an intellectual hole left by the towering legal intellect of Justice SCALIA. . . .

I will go further than to suggest, Mr. Speaker. I will assert that we have a Court today that too often reaches outside its

bounds. If I had a criticism of Justice SCALIA, it would be his deeper respect for *stare decisis* that I happen to see in a Justice such as Clarence Thomas. . . .

I want judges who read the Constitution and literally interpret the Constitution. The judges who understand, as Justice SCALIA did, that when he makes a decision based on the Constitution and the letter of the law—if he is uncomfortable with the policy decision that emerges with that, that tells him that he can be very comfortable with the constitutionality of the decision that he has made because, on policy, he disagrees, but he knows that he is not there to determine policy. . . .

The Constitution of the United States requires that the Congress establish a Supreme Court. Then it is up to our discretion as to what other Federal court we might want to establish.

Mr. Speaker, I actually had this debate with Justice SCALIA. One of the things I enjoyed about him was little banters along the way and how these arguments came out. I made the point to him that the Constitution only requires that the Congress establish a Supreme Court, not all the other Federal courts. So we could—Congress—abolish all of the Federal districts that are there. We could say there will be no Federal courts. It will all be handled through the Supreme Court itself. That is not a practical application, but it is from a constitutional perspective.

Then I said to Justice SCALIA that we could eliminate all the Federal courts except the Supreme Court. Over time, we could reduce the Supreme Court. There is no requirement that the Supreme Court have nine Justices or seven or five or three. We could reduce the Supreme Court of the United States down to the Chief Justice. There is no requirement that we build or fund a building or heat it or wire it for electronics or anything. There is no requirement that we have staff for any of the Supreme Court. The Congress could crank all the Federal courts down to just the Supreme Court, reduce the Supreme Court down to just the Chief Justice at his own card table, with candle, no staff, and no facility.

That is the argument I made to Justice SCALIA. Some of this I do for entertainment value because he always was an engaging fellow to have these conversations with.

Mr. Speaker, I don't know if you ever heard this point made to him before, but Justice SCALIA's response to it was: I would argue that there is a requirement that there be

three Justices on the Supreme Court; otherwise, there is no reason to have a Chief Justice.

I thought that was a pretty astute response, Mr. Speaker. But my response to that was: we have always had too many chiefs and not enough Indians. . . .



The Honorable

Antonin Scalia

March 11, 1936—February 13, 2016

*Associate Justice
of the
Supreme Court
of the United States
1986—2016*

*The Lying in Repose of Justice Scalia
Great Hall, Supreme Court of the United States
Washington, DC
February 19, 2016*

MASS OF CHRISTIAN BURIAL



ANTONIN SCALIA
ASSOCIATE JUSTICE OF THE
SUPREME COURT OF THE UNITED STATES

MARCH 11, 1936 FEBRUARY 13, 2016

MASS OF CHRISTIAN BURIAL

ANTONIN SCALIA
ASSOCIATE JUSTICE OF THE
SUPREME COURT OF THE UNITED STATES

MARCH 11, 1936 FEBRUARY 13, 2016

FEBRUARY 20, 2016
11:00 AM
GREAT UPPER CHURCH
BASILICA OF THE NATIONAL SHRINE OF THE IMMACULATE
CONCEPTION
WASHINGTON, DISTRICT OF COLUMBIA

MINISTERS OF THE LITURGY

Reverend Paul D. Scalia

Episcopal Vicar for Clergy

Diocese of Arlington

Celebrant & Homilist

In the presence of

His Eminence

Donald Cardinal Wuerl

Archbishop of Washington

His Excellency

Most Reverend Carlo Maria Viganò

Apostolic Nuncio to the United States of America

His Excellency

Most Reverend Paul S. Loverde

Bishop of Arlington

Their Excellencies

Attending Archbishops and Bishops

Concelebrating Priests

Concelebrants

Robert Banaszewski

John Scalia

Michael Murray

Christopher Scalia

Eugene Scalia

William Heenan

Lt. Col. Matthew Scalia

John Bryce

Pall Bearers

Order of Mass

INTRODUCTORY RITES

BLESSING OF THE BODY AND SPRINKLING WITH HOLY WATER

ENTRANCE HYMN

1. O God, our help in ages past, Our
hope for years to come, Our shelter from the
stormy blast, And our eternal home.
2. Under the shadow of Thy throne Thy
saints have dwelt secure; Sufficient is Thine
arm alone, And our defense is sure.
3. Before the hills in order stood, Or
earth received her frame, From everlasting
Thou art God, To endless years the same.
4. Thy Word commands our flesh to dust, "Re-
turn, ye sons of men:" All nations rose from
earth at first, And turn to earth again.
5. A thousand ages in Thy sight Are
like an evening gone; Short as the watch that
ends the night Before the rising sun.
6. Time, like an ever rolling stream, Bears
all its sons away; They fly, forgotten,
as a dream Dies at the op'ning day.
7. O God, our help in ages past, Our
hope for years to come, Be Thou our guard while
troubles last, And our eternal home.

OPENING REMARKS

Donald Cardinal Wuerl
Archbishop of Washington

COLLECT

LITURGY OF THE WORD

READING I

Wisdom 3:1-9

Mr. Leonard Leo, *lector*

PSALM RESPONSE

Psalm 23:1-3, 3-4, 5, 6

The Lord is my shepherd; there is nothing I shall want.

READING II

Romans 5:5–11

Justice Clarence Thomas, *lector*

GOSPEL ACCLAMATION

Praise to You, Lord Jesus Christ, king of endless glory!
I am the resurrection and the life;
whoever believes in me, even if he died, will live.

Deacon: The Lord be with you.

Assembly: And with your spirit.

Deacon: A reading from the holy Gospel according to
Matthew.

Assembly: Glory to You, O Lord.

GOSPEL

Matthew 11:25–30

HOMILY

Reverend Paul D. Scalia
*Episcopal Vicar for Clergy,
Diocese of Arlington*

GENERAL INTERCESSIONS

Response: Lord, hear
our prayer.

LITURGY OF THE EUCHARIST

PREPARATION OF THE GIFTS

(Choir) Beati quorum via

Charles Villiers Stanford
(1852–1924)

*Beati quorum via integra
est:
Qui ambulant in lege
Domini.*

Happy are those whose path
is blameless,
who walk in the law of the
Lord.

(Psalm 119:1)

PREFACE

Celebrant: Pray, brethren, that my sacrifice and yours
may be acceptable to God, the almighty Father.

Assembly: May the Lord accept the sacrifice at your
hands

for the praise and glory of His name, for our
good
and the good of all His holy Church.

PREFACE DIALOGUE

Celebrant: The Lord be with you.
Assembly: And with your spirit.
Celebrant: Lift up your hearts.
Assembly: We lift them up to the Lord.
Celebrant: Let us give thanks to the Lord our God.
Assembly: It is right and just.

PREFACE ACCLAMATION

*Sanctus, Sanctus, Sanctus Dominus Deus Sabaoth.
Pleni sunt caeli et terra gloria tua. Hosanna in excelsis.
Benedictus qui venit in nomine Domini.
Hosanna in excelsis.*

MEMORIAL ACCLAMATION

Celebrant: The mystery of faith.

When we eat this Bread and drink this Cup,
we proclaim Your
Death, O Lord, until You come again.

GREAT AMEN

Amen, Amen, Amen.

COMMUNION RITE

LORD'S PRAYER

Our Father, who art in heaven,
hallowed be Thy name; Thy kingdom come;
Thy will be done on earth as it is in heaven.
Give us this day our daily bread;
and forgive us our trespasses
as we forgive those who trespass against us;
and lead us not into temptation,
but deliver us from evil.

DOXOLOGY

SIGN OF PEACE

Celebrant: The peace of the Lord be with you always.

Assembly: And with your spirit.

LITANY AT THE BREAKING OF BREAD

(Choir) *Missa Quarti toni* Tomás Luis de Victoria
Agnus Dei (1548–1611)

Agnus Dei, qui tollis peccata mundi, miserere nobis.

Agnus Dei, qui tollis peccata mundi, dona nobis pacem.

Lamb of God, You take away the sins of the world, have mercy on us.

Lamb of God, You take away the sins of the world, grant us peace.

Celebrant: Behold the Lamb of God,
 behold Him who takes away the sins of the world.
 Blessed are those called to the supper of the Lamb.

Assembly: Lord, I am not worthy
 that You should enter under my roof,
 but only say the word
 and my soul shall be healed.

COMMUNION ANTIPHON

(Choir) *Lux aeterna* Plainsong, Mode VIII

| | |
|-------------------------------|-----------------------------|
| <i>Lux aeterna luceat ei,</i> | Let perpetual light shine |
| <i>Domine:</i> | upon him, O Lord: |
| <i>cum sanctis tuis in</i> | with Your holy ones for all |
| <i>aeternum</i> | time, |
| <i>quia pius es.</i> | because You are merciful. |

| | |
|-----------------------------------|-------------------------------|
| <i>Requiem aeternam dona ei,</i> | Grant him eternal rest, O |
| <i>Domine:</i> | Lord: |
| <i>et lux perpetua luceat ei:</i> | and let perpetual light shine |
| | upon him: |
| <i>cum sanctis tuis in</i> | with Your holy ones for all |
| <i>aeternum</i> | time, |
| <i>quia pius es.</i> | because You are merciful. |

GUIDELINES FOR THE RECEPTION OF COMMUNION

For Catholics

As Catholics, we fully participate in the celebration of the Eucharist when we receive Holy Communion. We are encouraged to receive Communion devoutly and frequently. In order to be properly disposed to receive Communion, participants should not be conscious of grave sin and normally should have fasted for one hour. A person who is conscious of grave sin is not to receive the Body and Blood of the Lord without prior sacramental confession except for a grave reason where there is no opportunity for confession. In this case, the person is to be mindful of the obligation to make an act of perfect contrition, including the intention of confessing as soon as possible (canon 916). A frequent reception of the Sacrament of Penance is encouraged for all.

For Our Fellow Christians

We welcome our fellow Christians to this celebration of the Eucharist as our brothers and sisters. We pray that our common baptism and the action of the Holy Spirit in this Eucharist will draw us closer to one another and begin to dispel the sad divisions which separate us. We pray that these will lessen and finally disappear, in keeping with Christ's prayer for us "that they may all be one" (John 17:21).

Because Catholics believe that the celebration of the Eucharist is a sign of the reality of the oneness of faith, life, and worship, members of those churches with whom we are not yet fully united are ordinarily not admitted to Holy Communion. Eucharistic sharing in exceptional circumstances by other Christians requires permission according to the directives of the diocesan bishop and the provisions of canon law (canon 844 §4). Members of the Orthodox Churches, the Assyrian Church of the East, and the Polish National Catholic Church are urged to respect the discipline of their own Churches. According to Roman Catholic discipline, the Code of Canon Law does not object to the reception of communion by Christians of these Churches (canon 844 §3).

For Non-Christians

We also welcome to this celebration those who do not share our faith in Jesus Christ. While we cannot admit them to Holy Communion, we ask them to offer their prayers for the peace and the unity of the human family.

For Those Not Receiving Holy Communion

All who are not receiving Holy Communion are encouraged to express in their hearts a prayerful desire for unity with the Lord Jesus and with one another.

United States Conference of Catholic Bishops, 1996

COMMUNION PROCESSION

1. Jesus, my Lord, my God, my All, How can I
love Thee as I ought? And how revere this
wondrous gift. So far surpassing hope or thought?
Sweet Sacrament, we Thee adore! O make us love Thee
more and more! O make us love Thee more and more.

2. Had I but Mary's sinless heart, To love Thee
with my dearest King; O! with what bursts of
fervent praise, Thy goodness, Jesus would I sing.
Sweet Sacrament, we Thee adore! O make us love Thee
more and more! O make us love Thee more and more.

3. O! see upon the altar placed The victim
of divinest love! Let all the earth be-
low adore. And join the choirs of heav'n above.
Sweet Sacrament, we Thee adore! O make us love Thee
more and more! O make us love Thee more and more.

(Choir) *Panis angelicus*

César Franck
(1822–1890)

Panis angelicus
fit panis hominum;
Dat panis caelicus

figuris terminum.
O res mirabilis! Manducat
Dominum
Pauper, servus et humilis.

The Bread of angels
was made the Bread of man;
He confined the heavenly
Bread
to a thing of size and shape:
O marvelous thing! That a
poor man,
A humble servant, should eat
the Lord.

Te, trina Deitas unique,
poscimus,
Sic nos tu visita, sicut te
colimus;
Per tuas semitas duc nos
quo tendimus,
Ad lucem quam inhabitas.

We beseech Thee, O God,
Three in One,
Visit us, thus, even as we
worship Thee.
Lead us into Thy ways; and
by them
May we direct our course to
the Light in which Thou
dwest.

(St. Thomas Aquinas, 1225–1274)

(Choir) *Ave verum corpus*

Wolfgang Amadeus Mozart
(1756–1791)

Ave verum corpus
natum de Maria virgine:

Hail, True body,
born of the Virgin Mary:

| | |
|---------------------------------|-----------------------------|
| <i>vere passum immolatum</i> | having truly suffered, |
| <i>in cruce pro homine,</i> | sacrificed on the cross for |
| | man, |
| <i>cujus latus perforatum</i> | whose pierced side |
| <i>unda fluxit et sanguine,</i> | flowed water and blood, |
| <i>esto nobis praegustatum</i> | be for us a foretaste |
| <i>in mortis examine.</i> | in the test of death. |

(Text ascribed to Innocent VI, d. 1362)

PRAYER AFTER COMMUNION

RITE OF COMMENDATION

INVITATION TO PRAYER

SONG OF FAREWELL

May the angels lead you into paradise;
may the martyrs come to welcome
you and take you to the holy city,
the new and eternal Jerusalem.

May the choir of angels welcome you
Where Lazarus is poor no longer,
may you have eternal rest. *(Antiphon)*

PRAYER OF COMMENDATION

DISMISSAL

CLOSING HYMN

1. O God beyond all praising, We worship You to-
day And sing the love amazing That songs cannot re-
pay For we can only wonder At ev'ry gift You
send, At blessings without number And mercies without
end: We lift our hearts before You And wait upon Your
word: We honor and adore You Our great and mighty
Lord.

2. Then hear, O gracious Savior, Accept the love we
bring. That we who know Your favor, May serve You as
our
king. And whether our tomorrows Be filled with good or

ill, We'll triumph through our sorrows And rise to bless
You
still: To marvel at Your beauty And glory in Your
ways, And make a joyful duty Our sacrifice of praise.

3. O God, Almighty Father, Creator of all
things, The heavens stand in wonder, While earth Your
glory
sings; O Jesus, Word Incarnate, Redeemer most a-
dored, All glory, praise and honor Be Yours, O sov'reign
Lord; O God, the Holy Spirit, Who lives within our
soul, Send forth Your light and lead us To our eternal
goal!

*The family of Justice Antonin Scalia
wishes to extend their sincere gratitude and appreciation
to all those who have offered condolences and
remembered them in prayer during this time.*

*A memorial program for Justice Scalia
will be held at 11:00 a.m. on Tuesday, March 1
at the Mayflower Hotel,
1127 Connecticut Avenue, Washington, DC.
All family and friends are invited to attend
and participate in this tribute to the Justice.*

BASILICA OF THE NATIONAL SHRINE OF THE IMMACULATE
CONCEPTION

Rev. Msgr. Walter R. Rossi
Rector of the Basilica

Rev. Msgr. Vito A. Buonanno
Rev. Michael D. Weston
Rev. Raymond A. Lebrun, O.M.I.
Priests of the Basilica

Deacon Ira E. Chase, Sr.
Deacon Joseph Curtis, Jr.
Deacon Michael D. Yakir
Deacons

Peter Latona, D.M.A., *Director of Music*
Benjamin J. LaPrairie, B.M., *Associate Director of Music*
Nathan Davy, D.M.A., *Assistant Organist*
Robert Grogan, D.M.A., *Carillonneur and Organist Emeritus*
Choir of the Basilica of the National Shrine
Katie Baughman, D.M.A., Crossley Hawn, B.M.,
Susan Lewis Kavinski, B.M., Jacob Perry Jr., B.A.,
Cantors of the Basilica

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Knights of Columbus, Ushers of the Basilica of the National Shrine
Sisters Servants of Mary Immaculate, Sacristans of the Basilica of
the National Shrine

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BASILICA OF THE NATIONAL SHRINE OF THE IMMACULATE CONCEPTION
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Clarence Thomas, Associate Justice, Supreme Court of the United States. I was truly blessed to have had NINO at the Court when I became a member. I was blessed many times over the almost 25 years that we served together.

There were countless chats walking to the chambers after a sitting or after our conferences. Those very brief visits usually involved more laughter than anything else. There were the many buck-each-other-up visits or checking on one another after one of us had an unpleasant experience. There were calls to test an idea or work through a problem.

I treasure the many times we had lunch with our law clerks at A.V.'s, where he invariably had an anchovy pizza. My clerk family and I will always toast him at our gatherings, but no anchovy pizza. I loved the eagerness and satisfaction in his voice when he finished a writing with which he was particularly pleased. "Clarence, you have got to hear this. It is really good." Whereupon, he would deliver a dramatic reading.

He worked hard to get things right—the broad principles and the details of law, grammar, syntax, and vocabulary. He was passionate about it all. It was all important to him. None was beneath him, and all deserved and received his full attention. In sports parlance, he gave everything 110 percent.

For the past few years, my place on the bench has been between NINO and Steve Breyer. I loved the back and forth that took place especially the passing of notes and the whispered or muttered commentary. When NINO wanted to talk quietly with me about something, he would lean far back in his chair and say in an almost endearing tone, "Brother Clarence, what do you think ...?" Of course, he would offer his opinion of various matters. On one occasion, he commented that one of our opinions that had become an important precedent was just a horrible opinion, one of the worst. I thought briefly about what he said and whispered, "NINO, you wrote it."

In a sense, it is providential (and certainly not probable) that we would serve together. I only knew of him but had never met him. He was from the Northeast, while I am from the Southeast. He came from a house of educators; I, from a household of almost no formal education. But, we shared

our Catholic faith and our Jesuit education as well as our sense of vocation.

For different reasons and from different origins, we were heading in the same direction. So, we walked together and worked together for a quarter century. Along the way, we developed an unbreakable bond of trust and deep affection. Many will fittingly, deservedly, and rightfully say much about his intellect and jurisprudence. But, there is so much more to this good man. As one of our colleagues said, “He filled the room.” His passion and his sense of humor were always on full display.

So was his love for Maureen, his family, his Church, our country, and our Constitution.

Yesterday, I finished Eric Metaxis’ biography of Dietrich Bonhoeffer. One of Hitler’s last acts before the Allies defeated Germany was to have this man of God executed. I thought of this memorial gathering as I read Bishop Bell’s eulogy of Bonhoeffer. With apologies, I borrow liberally and quote loosely:

... with him a piece of my own life is carried to the grave. Yet, our eyes are upon Thee. We believe in the communion of saints, the forgiveness of sins, the resurrection of the body and the life everlasting. We give thanks to God for the life, the suffering, the witness of our brother whose friends we were privileged to be. We pray God to lead us, too, through his discipleship from this world into His heavenly kingdom; to fulfil in us that other word [that Dietrich used]: “*non potest non laetari qui sperat in Dominum*”—while in God confiding I cannot but rejoice.

God bless you Brother NINO; God bless you!

Judge Laurence H. Silberman. A number of distinguished scholars and practicing lawyers have spoken at length about Justice SCALIA’s extraordinary impact on American jurisprudence. Although I have been an admirer of his judicial opinions for his entire career—except for the rare occasion when he voted to overturn one of my opinions—there is no need for me to add to this outpouring of praise. Instead, I speak as one of his oldest friends.

In 1974, after the notorious Saturday Night Massacre, I came into the Justice Department as Deputy Attorney General, under Attorney General Bill Saxby, the former Senator. The Department was largely cut off from the White House. I have said we were obligated to carry out the President’s policy, except insofar as we were bound to support the Special Prosecutor’s investigation of him. Surely that was the most extraordinary task of any Justice Department in American history.

I found many of the senior Presidential appointees in shock, and understandably rather jumpy. The most important Assistant Attorney General's position—certainly at that point—was the one in charge of the Office of Legal Counsel. The incumbent was played out having to navigate through the Watergate reefs. He needed to be replaced. We wanted a brilliant lawyer with steel nerves. I was charged with finding a successor. A list of candidates was compiled. The first person I interviewed was ANTONIN SCALIA, then occupying a quasi-academic role as Chairman of the Administrative Conference. I have never been so impressed. I immediately offered him the post subject to the Attorney General's approval. White House approval in those days was perfunctory given the President's weakness. NINO SCALIA was nominated by Richard Nixon and appointed by the new President, Gerald Ford.

Almost immediately NINO was plunged into the most delicate tasks. I had stopped the White House from allowing a moving truck from carting off the former President's papers until we formally opined as to whether he owned them. NINO SCALIA fashioned a brilliant opinion based on historical precedent establishing Nixon's ownership, but the Congress intervened. That led to extensive litigation before we were sustained. I was enormously impressed with NINO's work.

Then came a less serious legal issue, but an intensely personal one. Bill Simon, the Deputy Secretary of Treasury—an enormously wealthy man—designated the Energy Czar by President Ford, issued an order depriving all Department deputies of their car and driver. I planned to resign because I was so financially strapped that I couldn't afford to buy another car. To my astonishment, NINO devised an exception for me. He arranged for my car to have a police radio in the back and he obtained a gun permit for my chauffeur. That qualified my car as a "law enforcement vehicle." Perhaps that foreshadowed our common view on the Second Amendment.

In any event, we became close friends and I began, even then, to think of NINO as a potential Supreme Court nominee. After we left government, we both, along with Bob Bork, went to AEI where we enjoyed brown bag lunches with a group of distinguished, mostly conservative, intellectuals and plotted a legal counter-revolution.

NINO and I stayed in constant touch when he returned to academia at the University of Chicago Law School and I went into the private sector. In 1980, as chairman, I re-

cruited him to join a committee of lawyers and law professors supporting Ronald Reagan. After the election I recommended NINO for various posts, including the one he accepted—a seat on the DC Circuit—ideally fitted for an administrative law expert.

We often turned to each other for career advice. When he was subsequently offered the Solicitor General post, I advised him to turn it down. I forcefully contended that his chance of a Supreme Court nomination would be actually reduced if he took that post—because of the hot button social issues with which the Solicitor General would have to contend. Then a year later, he returned the favor by talking me into joining him on the DC Circuit.

In 1986 I was thrilled when he came into my office to tell me privately that he was to be the Supreme Court nominee. He asked me to represent him, which I immediately agreed to do. He asked me for two reasons: He thought the likeliest issues involved the proper limits that should bind a judge's answers to doctrinal questions from Senators. Second, of course, I provided free help.

For a brilliant judge, NINO was hopelessly impractical. As I was going through his papers, I saw that AT&T owed him a substantial amount of money. I was stunned. It turned out that he had done legal consulting work some years before he was a judge and had forgotten to send a bill. He asked me if he should clean up his accounts by sending the bill now. I told him sadly that it would be rather awkward if AT&T sent him money after his nomination.

Then before the hearings he came to me concerned about what he thought might be an ethical question. Senator Byrd, the powerful West Virginia Senator, had invited NINO to join him at the Columbus Day parade in Charleston long after the hearings would be over. I laughed and told him that meant he was going to be confirmed, regardless of the hearing, as the first Italian-American on the Court.

We teased each other constantly about our different ethnic backgrounds. He always twitted me that as a New Yorker he understood Jewish culture better than I did—which was true—but I could be defensive. We were both invited to a small dinner party of Harvard graduates to meet the new president of Harvard, Neil Rudenstien, who happened to be half Italian and half Jewish. We were both concerned about the sweep of political correctness on campuses. Rudenstien spoke and answered questions for an hour. Afterward, as we left, we agreed that he sounded good only about half the

time. Then we got into a spirited argument, with historical allusions, as to whether the good half was Italian or Jewish.

Recently I was drawn to the new techniques developed by various organizations to explore one's genetic background. My wife bought a test for me and, to my astonishment, I turned out to be much more Finnish than Jewish. I told NINO and he decided to take the same test. Maureen was quite apprehensive. She was worried that her asserted Irish superiority over Italians could be jeopardized. Although I don't feel free to disclose the complete Scalia report, sure enough, NINO turned out to have a healthy dose of Irish genes.

Although much of the advice we gave each other will remain private, one issue we discussed has only in the past few days become public. In 1996, as Senator Dole was winning the nomination battle NINO called me with rather momentous news. He had been approached by Congressman Boehner, apparently on Senator Dole's behalf, to inquire whether he would be willing to be the Vice Presidential candidate. I knew that he loved his time on the Court, but he could not help but be flattered. If Bob Dole were elected, who knew what a Vice Presidency would lead to. It was a shrewd notion. NINO, as you all know, had enormous charm. Indeed, it had been thought when he was nominated his charm would be employed to cobble together conservative majorities on the Court, much like William Brennan had forged different kinds of majorities. Of course, that was an illusion because NINO cared more about judicial reasoning than a judicial result. The latter would only follow the former. Only if a Justice is less concerned with reasoning can he or she bargain so effectively.

Although I told him I thought he would be an enormously effective politician, I was brutally honest, asking him if he wanted to return to law practice or teaching. That took him aback. I explained I was virtually certain Dole would lose. He declined consideration.

I should include a description of one of the most frightening days of my life. NINO, with two tickets to a Baltimore/Yankees game, invited me to join him. Most human beings have an inboard computer gene that prevents them from driving at high speed too close to the car in front of them, so there is sufficient room to deal with a sudden stop. NINO apparently lacked the gene. By the time we reached the stadium, I was sick in the stomach. I had gotten nowhere asking him to back down.

We sat in the Orioles section of the stadium in the midst of a group of rather large, fierce, beer-drinking Orioles fans. NINO began to bellow supporting encouragement for the Yankees, combined with loud criticism of the umpires. After several innings one of the largest and ugliest Orioles fans tapped NINO on the shoulder and said, "If you don't shut up, I am going to punch you in the nose." NINO turned to me. Should I tell him who NINO is? I said no, it might more likely get him punched—and maybe me too.

Although over the years we played poker together and brought our shotguns to a gun club, most notably, every few months we lunched alone, invariably over a pizza and red wine.

I had lunch with NINO only a few weeks ago at our new pizza joint. We discussed the present political chaotic situation. I wish I could relate our common views, but, of course, it would be improper, so I will leave it to my memoirs.

I hate to contemplate the end of those lunches. I will miss NINO terribly.

Catherine Scalia Courtney, daughter. We are gathered here because of one man. A man who was the only son begotten, called "father" by many, revered by believers, disparaged by others, a man who espoused justice and truth. That man, of course, is ANTONIN SCALIA.

Since Dad died, my siblings and I have been compiling a list of "Dadisms" via email, shooting them off to each other as they pop into our heads. A couple days ago when I lamented to my brother Matthew that I didn't know what I was thinking when I said I could speak today, he encouragingly reminded me that "You're not everybody else. You're a Scalia." Then, in true Scalia fashion, he quickly followed up with another of our favorites, "Now don't screw it up."

So I hope Dad will forgive me if I screw it up. He might ask, "Is this of general interest?" Yes, it is. As one of the minority in the 5 to 4 split of his 9 children, I want to share some of what Dad was to me for the last 49 years.

I was at the top half of the batting order—another nine-member American institution—so for the first decades of my life, as far as I was concerned, Dad was a Justice Department lawyer and a law professor who couldn't seem to hold down a job. During those nomadic years, between Jones Day in Cleveland and Dad's appointment to the appeals court in Washington, we moved eight times.

There were a few constants, besides the likelihood that there was a new baby on the way. One constant was mass

on Sunday—and yes, every Holy Day (even that one that fell right in the middle of our beach vacation!). Another non-negotiable was family dinner every night. As busy as he was, and as committed to his work, being home for dinner was a priority. If he could make the time, we were expected to be there, too. Finally, we had each other, which was the greatest gift. No matter where we lived, we were the Scalia family, and we knew that was something important.

That's not to say it was easy being the daughter of NINO SCALIA. He could be demanding, and at times, impatient even.

He was a poor estimator of travel time, never allowing quite enough to get to that Latin mass which was 45—not 30—minutes away.

He was a stickler about words, pronunciation, and grammar, which wasn't always a fun time. I mean, it wasn't always fun. He repeated words over and over so we heard the difference—Mary, marry, and merry. Cherry, not “chairy.” And our favorite: “dunkey,” not donkey.

As the son of an Italian professor, Dad's gift with words and language was in his blood. He still knew some German, and could bluff his way through Italian, and Latin of course, but few knew that he was fluent in another obscure language: the Op Language. He had learned it as a kid in Queens, and he taught it to us as young children. Being able to carry on a conversation in Op was a source of family pride. Also, a good party trick. I was proud to say my name was Copathoperopine Opelopisopabopeth Scopalopiopa.

I cherish mental snapshots of Dad—on all fours chasing us through the house as the Tickle Monster. A dollop of shaving cream on my nose when I went up to say goodbye before school. Belting out “My Uncle Roasted a Kangaroo” or “Mr. Froggy Went-a-Courting” at the piano. Waving his arms at the grill, commanding the Saturday hamburgers to “be juicy.” Reading fairy tales—not Disney's Rapunzel or the Little Golden Books' Snow White. He was an originalist, after all, so our bedtime stories were the Brothers Grimm, an old boxed, cloth, hardcover edition with grotesque illustrations.

I will let the legal world discuss his judicial legacy, but for me one decision stands above all others. That was the landmark decision of 1960 to marry Maureen McCarthy. She was the perfect foil. Anyone who knows Mom knows that she is as smart as, dare I say smarter than, Dad. (I can tell you for sure if you needed help with math homework, you'd never ask him!) As he used to say, he did the Constitution, and she

did everything else. The day-to-day running of the business that is a large family fell to Mom.

He never made her work seem any less important than his own, and he gave her credit for it. He used to jokingly say that she was “a wonderful little woman,” and we all sort of knew that he meant it. Packing up a huge household for each of those moves, making sacrifices to stretch a public service salary to feed and clothe a large family, fighting to raise us in the faith in an increasingly secular world. She supported him and stood by him so he could focus on what I believe they both saw as his calling.

I am so grateful that I was given the opportunity to travel with Mom and Dad to Galway 2 years ago. For the first time, I got to appreciate what I had never noticed before as a kid. That zest for life, going at full speed, trying to see it all and cram it all in, and his partnership with Mom. He taught a class each morning for New England Law/Boston, met us back at the house for a quick lunch, and then we hit the road. Mom was the tour guide—she had the books with turned down pages and Post-it notes, and she read out our itinerary as he took the wheel. “What old church are we going to see today, Maureen?,” he’d ask. And he’d complain—about the clouds that we were always heading toward, that this was a really out-of-the-way place, that bikes shouldn’t be allowed on the narrow roads, and it’s best not to say what he did when he caught sight of a E.U. flag. “Now, NINO,” Mom would say. But here’s the thing—he always ended up doing what Maureen told him to. This was their shtick, and it took me 40-some years to see it. He deferred to Mom, respected her opinion, and was happy following her lead when he knew it was important to her.

The Scalia family feels blessed by all the prayers, memories, and recollections shared with us over the last few weeks. I know that for all of us, and especially Mom, they have been a source of great comfort and consolation, and have been an affirmation that his was a life well lived, and he will be missed.

Ruth Bader Ginsburg, Associate Justice, Supreme Court of the United States. In my treasure trove of memories, an early June morning, 1996. I was about to leave the Court to attend the Second Circuit Judicial Conference at Lake George. Justice SCALIA entered, papers in his hand. Tossing many pages onto my desk, he said: “Ruth, this is the penultimate draft of my dissent in the *VMI* case. It’s not yet in shape to circulate to the Court, but I want to give you as

much time as I can to answer it.” On the plane to Albany, I read the dissent. It was a zinger, of the “this wolf comes as a wolf” genre. It took me to task on things large and small. Among the disdainful footnotes: “The Court refers to the University of Virginia at Charlottesville. There is no University of Virginia at Charlottesville, there is only the University of Virginia.” (Professor Christopher, would your Dad say the same thing today?) Thinking about fitting responses consumed my weekend, but I was glad to have the extra days to adjust the Court’s opinion. My final draft was much improved thanks to Justice SCALIA’s searing criticism.

Another indelible memory, the day the Court decided *Bush v. Gore*, December 12, 2000, I was in chambers, exhausted after the marathon: review granted Saturday, briefs filed Sunday, oral argument Monday, opinions completed and released Tuesday. No surprise, Justice SCALIA and I were on opposite sides. The Court did the right thing, he had no doubt. I disagreed and explained why in a dissenting opinion. Around 9 p.m. the telephone, my direct line, rang. It was Justice SCALIA. He didn’t say “get over it.” Instead, he asked, “Ruth, why are you still at the Court? Go home and take a hot bath.” Good advice I promptly followed.

Among my favorite Justice SCALIA stories, when President Clinton was mulling over his first nomination to the Supreme Court, Justice SCALIA was asked: “If you were stranded on a desert island with your new Court colleague, who would you prefer, Larry Tribe or Mario Cuomo?” Justice SCALIA answered quickly and distinctly: “Ruth Bader Ginsburg.” Within days, the President chose me.

Among Justice SCALIA’s many talents, he was a discerning shopper. In Agra together in 1994, our driver took us to his friend’s carpet shop. One rug after another was tossed onto the floor, leaving me without a clue which to choose. NINO pointed to one he thought Maureen would like for their beach house in North Carolina. I picked the same design, in a different color. It has worn very well.

Once asked how we could be friends, given our disagreement on lots of things, Justice SCALIA answered: “I attack ideas. I don’t attack people. And some very good people have some very bad ideas. And if you can’t separate the two, you gotta get another day job. You don’t want to be a judge. At least not a judge on a multimember panel.” Justice SCALIA was fond of Justice Brennan, as Justice Brennan was of him.

I will miss the challenges and the laughter he provoked, his pungent, eminently quotable opinions, so clearly stated

that his words never slipped from the reader's grasp, the roses he brought me on my birthday, the chance to appear with him once more as supernumeraries at the opera.

In his preface to the libretto of the opera buffo "Scalia/Ginsburg," Justice SCALIA described as the peak of his days in Washington, DC, an evening in 2009 at the Opera Ball, at the British Ambassador's Residence, when he joined two Washington National Opera tenors at the piano for a medley of songs. He called it the famous Three Tenors performance. He was, indeed, a magnificent performer. How blessed I was to have a working colleague and dear friend of such captivating brilliance, high spirits, and quick wit. In the words of a duet for tenor SCALIA and soprano Ginsburg, we were different, yes, in our interpretation of written texts, yet one in our reverence for the Court and its place in the U.S. system of governance.

John Manning, law clerk to Justice Scalia. Mrs. Scalia, the Scalia family, fellow law clerks, and distinguished guests. I was one of Justice SCALIA's early law clerks, and today I'll say a few words about what it was like to clerk for the great man, and then a bit about his larger impact on the law.

Let me start with the clerkship: The Scalia chambers were a tad raucous. Believe it or not, some people think of conservatives as formal and hierarchical. Justice SCALIA was anything but that. Although he was (as he joked) a "Supreme Justice," and we were five youngsters, he made it clear that no argument was out of bounds. At the clerk conferences that took place the day before the Court's conferences, it was basically a free for all. All of his clerks would argue with one another and with the Justice—strongly, passionately, often embarrassingly loudly, and completely without fear that we would offend the Boss. While three of us were conservative, and two were liberal, our differences in those clerk conferences rarely split along political lines. That wasn't what the job was about. His job was to apply a legal methodology he thought appropriate for a life-tenured judge in a constitutional democracy. Our job was to help him do that. Period.

There was an openness to all of this that made us feel perfectly safe to disagree, even simply, with the Justice. I'm not saying there weren't moments of doubt. As anyone who clerked for him could tell you: Sometimes you'd be making a point, and he'd sort of make a face—he'd tilt his head, furrow his brow, and stare into space for what seemed like an

abnormally long period of time. It was a tad disquieting. But we soon figured that this was just his thinking face, and what it meant was that he was actually thinking hard about what we were saying. About the only time he ever overtly pulled rank was when one of us got a little overinvested, and he'd say, "Hey, remember it's my name that has to go on the opinion." Especially with me for some reason, that was often followed by the further observation, "And I'm not a nut." The whole thing was unforgettable.

The experience changed my life. His openness, his enthusiasm, his clarity, his playfulness, his common sense, his commitment to principle—all of this made even the blandest legal issue seem vivid and human and consequential. It is simply not natural to feel as strongly as he made us feel about legislative history, about the harmless error doctrine, about the borrowing of statutes of limitations, about the level of generality of some ancient common law tradition. Indeed, I confess that it may not be perfectly healthy to feel as strongly as I do about the *Chevron* doctrine to this very day. But I'm working on it.

That was Justice SCALIA's gift. He took the boring, mundane, technical, everyday work of the law, and he showed us what was at stake for our constitutional democracy. Maybe that's why he got so much done. Just think about statutes. It's easy to forget how different the world was before Justice SCALIA. How much more the Court leaned on legislative history. How readily the Court enforced the spirit rather than the letter of the law. These practices had gone on, largely unquestioned, for generations, in some cases for centuries.

In no time at all, Justice SCALIA changed the terms of debate. He showed that it was all about the allocation of power. His resistance to legislative history was not just empty formalism. It was about checking the transfer of legislative power from Congress and the President to unrepresentative committees, legislators, staff, or lobbyists. His preference for letter over spirit was not just a better way of finding legislative intent. It was about protecting the messiness of American democracy against the self-aggrandizing presumption that judges could and should gloss over the awkward compromises that are the staple of our legislative process—and, by extension, of our democracy itself.

All of this was exhilarating. In fact, it's what inspired me to go into teaching law. In the many times Justice SCALIA visited Harvard in the years I've been there, he inspired my students too. He inspired them with his plain outspokenness,

his openness, his willingness to take seriously the criticisms of legal novices he did not know and would not see again, his acknowledgment to total strangers that he did not always get things right, his sense of humor, his generosity of spirit, and the simple power of his ideas. He was a force of nature. Year after year, I have had the experience of one or more of my 1L's coming up to me, looking stricken, and saying to me, "Professor Manning, I'm a liberal; is it OK that I agree with Justice SCALIA's opinions? I do my very best to reassure them, "There's nothing wrong with you."

It's hard to believe the great man has passed on. But I cling confidently to the thought that Justice SCALIA will continue to teach students long into the future—that because of his clarity, his commitment to principle, and his courage, his ideas will long outlive his days on Earth. I myself will try to honor his memory by always remembering his lesson that one's commitment to principle is tested only when it hurts.

Justice SCALIA was a great Justice. He was a wonderful husband, father, and grandfather. He was also a wonderful friend. He was kind and funny and generous. I can never repay the debt I owe him. Like so many of us here today, I would not have the life I have, a life I love, had it not been for Justice SCALIA.

Joan Larsen, law clerk for Justice Scalia. As one of the Justice's former clerks, I want to begin with thanks to Mrs. Scalia and to all of the Scalia family for your incredible generosity to us over the past few weeks. In the midst of your own incalculable grief, you saw also our mourning and, despite our large numbers, you invited us in. It has eased our pain tremendously to be with you and to be a part of the remembrances for our beloved Boss. We are truly grateful.

The clerks have been talking over the past few weeks, and many have commented on how hard it was to stand vigil over the Justice as he lay in repose in the Great Hall. Alone with our thoughts as we stood on the cold marble floor, memories came flooding back. The most challenging task, nearly everyone reported, was not to keep from crying (for that might have been forgiven) but instead to keep from grinning. The Justice was fundamentally a happy man, and it is impossible for us to remember him without remembering the zeal with which he embraced life. Even when things were not going his way on the Court, he was generally upbeat. He sang in his chambers; he whistled in the corridors; his sonorous laugh reverberated throughout the

courtroom. His wit was sharp, and he delighted in matching it against anyone foolish enough to try.

He held us, and himself, to very high standards. He was sometimes impatient when we would fall short of the mark. But he was always quick to forgive, to teach, and to move on.

I remember keenly the time that I committed what in his chambers amounted to a mortal sin: I handed him a draft opinion which cited Webster's Third. This, just one term after his famous dictionary case—*MCI v. AT&T*—had made clear for all the world that the third edition of Webster's was not, in his estimation, a dictionary at all.

"Did you not read, before coming to this Court, the opinions of the last term?" he boomed—displeased, but not angry. The prudent response at that moment would have been to beg the opinion back, and to have returned it immediately with all reference to Webster's expunged—the OED shining brightly in its place.

But panic must have overtaken my brain's executive function and, instead, I foolishly tried an excuse. "Umm, yes, Justice," I said. "I remembered that you had strong views about dictionaries. But what I couldn't remember was just which one you didn't like. So I made sure to work only from the one you keep on display in the front office."

His eyebrows rose. What momentarily flashed as anger in his eyes immediately softened into disbelief. It was no longer about me, or the opinion, but about the prospect that that blasphemous book could be residing in his front office. I could see him thinking: "It could not be so!"

He rose and walked to the dictionary stand. Taking the open pages of the large leather-bound book in his hands, he proceeded, in painstakingly slow motion, to flip over the cover. Did he have me, or did I have him? Then THUNK went the book as its front met its back. He glanced down at the cover, and then his eyes met mine. I dared for a nanosecond to feel redeemed, even victorious. Then, without a moment lost, he reclaimed the advantage. "This, my dear," he pronounced, "is but a trap laid for the unwary." And his enormous laugh echoed through the chambers.

I had been careless, reckless even; and I had been schooled; but I had been forgiven.

I am often asked what it was like to clerk for Justice SCALIA; and more particularly to be a woman clerking for Justice SCALIA. "Much like being a man clerking for him," is my response. I have spoken to many of the Justice's female

clerks in the days since his passing, and the same story repeats. He demanded as much from us as from our brethren. And he gave us just as many opportunities to show our stuff.

What better preparation for any of us, male or female, than to have matched wits with the Justice? That we almost always came up short should not be dwelled upon. That was inevitable. What is remarkable is that he cared enough about us to ask our opinions and to debate with us when he disagreed. I have often wondered, what was in this for him? He could have easily done the job without us. But what was in it for us was invaluable. With each thrust and parry we got sharper. What an incomparable gift to a young lawyer.

As we have grown in our legal careers, the lessons of the clerkship have stayed with us. We each have our favorite grammar lesson: “Never use impact as a verb.” “A condition contrary to fact requires the subjunctive.” “The possessive case precedes a gerund.”

And his habits of careful thought, meticulous research, and economy of language are ones that we all try to emulate. So many of the clerks have said that when they write, they still write for him. That has been my experience. As I struggled to write my own first opinions, I was nearly paralyzed by the prospect that he might someday read them.

This, the writing of an opinion, leads me in a roundabout way to the story I’d like to end with. It is a story I meant to tell the Justice. Indeed I had called Angela a few weeks back to inquire when he might be in chambers. “Just Wednesday next week,” she replied, “then he’ll be heading out of town.” Wednesday came, and I was deep into writing a bear of an opinion; the day slipped away. “I’ll call him Monday,” I thought. Of course, Monday didn’t come.

But I thought I would share with you now what I wish I had shared with him then.

As a new Justice on the Michigan Supreme Court, I have been making the rounds introducing myself to the people of my State—speaking to small groups in church basements and libraries and courthouses. Twice in the few weeks before his passing, the most extraordinary thing happened. When I got to the part of my bio where I say, “and then I clerked for Justice SCALIA,” some members of the audience spontaneously burst into applause. These were not groups of lawyers or judges; just groups of ordinary Michiganders.

The first time this happened, I’ll admit I was startled. Most people, after all, cannot name a Supreme Court Justice; fewer still have formed an opinion. I said as much, and that

I would be sure to pass their enthusiasm along to the Justice. “He would like to hear that,” I said. Then I went on with my remarks. When I got to the end of my speech, a member of the audience stuck up his hand: “Who did you say you clerked for again?” he asked.

“What?” I thought to myself. “Did this guy walk in late? We just had this whole thing ...” But I answered: “Justice SCALIA.” This time, most of the crowd got to its feet and gave him a standing ovation.

“We just wanted to have the chance to do that for him again,” the man explained.

Me too.

Mary Clare Scalia Murray, daughter. Thank you for being here and for your kind words of sympathy, for your wonderful affection for our father, for the stories of your friendships, and most especially for your prayers.

There have been many remarks about Dad’s faith and the central role it played in his life. For many of us the only way to comprehend the loss of our father, friend, or colleague, is to place it in the framework of God’s plan and God’s mercy, particularly during this year which Pope Francis has named the Year of Mercy.

When we say that his faith was important to him, some may understand that to mean he was Catholic, he went to church.

What Dad’s, and really Mom and Dad’s, practice of faith meant for us growing up was that we never missed Sunday mass unless we were sick (in which case we’d better plan on staying in that bed for the day), and that as a family we drove however far was necessary to find what Dad considered an appropriate liturgy. Our Sundays in Chicago were especially adventurous: rather than walking 10 minutes to the neighborhood church, Dad drove us 30 minutes to a city church led by Italian priests whose accents were so thick that it was hard to tell when they were speaking English or Latin.

We can tell stories about this as part of our strict upbringing, but what that approach to faith did for us was give us a framework of obedience to the Church and instill in us an acceptance of the basic obligations we owe her. We also learned that though worship is a deeply personal experience, it is built on centuries of tradition and history rich with meaning.

Faith in our home was also the intellectual exercise of explaining the teachings of the Church through reason. There

were frequent conversations about sermons, good and bad, and about why the Church taught certain things and why the teachings made sense for mankind, why we could understand them as truths.

In the many stories that have been published or shared since Dad's death, I've continued to grow in my understanding of my father and in his daily exercise of God's love, which is what mercy is. His ability to form deep, lifelong friendships with people of varying views; his generosity and humility in reaching out to others, to strangers, to people from all walks of life. Now the unbelievable outpouring of respect and affection from people throughout the country because of what he symbolized to them. These are the fruits of my father's faith and of God's mercy through him.

The events of the last 2 weeks have been physically and emotionally exhausting, but also spiritually renewing. The procession of thousands of Americans through the Supreme Court as Dad lay in repose brought many of us great consolation. As for the funeral mass, we really did initially consider a small private Latin mass. That's what Dad would have wanted. But it fell to me to remind my mother, as it so often does, since when do we care what Dad wants? He wouldn't want us to change our way of doing things so suddenly.

As a family we recognized that the final opportunity to pray in a Church with his body should be shared with the large number of friends and faithful that relied on him. The joy and peace from that mass were a gift to many, who continue to respond to it.

Since his death I have learned so much about my father's faith and how he lived it. This is the great mercy we have been given through this loss: that our love for him and our understanding of his legacy to us continue to grow even in death. That we grow in a new understanding of God's love through the words and memories of others. Some of my friends have expressed this so beautifully in the Jewish tradition—may his memory be a blessing. It is that, and also a source of grace, and an opportunity to grow in faith. I can't think of any greater legacy.

Thank you.

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